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ABSTRACTS

State Power and the Structure of International Trade

By S. D. KRASNER

The structure of international trade, identified by the degree of openness for the movement of goods, can best be explained by a state-power theory of international political economy. This theory begins with the assumption that the nature of international economic movements is determined by states acting to maximize national goals. Four goals—aggregate national income, political power, social stability, and economic growth—can be systematically related to the degree of openness in the international trading system for states of different relative sizes and levels of development. This analysis leads to the conclusion that openness is most likely to exist when there is a hegemonic distribution of potential economic power. Time-series data on tariff levels, trade proportions, regional concentration, per capita income, national income, share of world trade, and share of world investment are then presented. The first three are used to describe the degree of openness in the trading system; the last four, the distribution of state power. The data suggest that the state-power theory should be amended to take into consideration domestic political constraints on state action.

Failures in National Intelligence Estimates: The Case of the Yom Kippur War

By A. SHLAIM

The principal question which this article seeks to answer is: Why was the intention of the Arabs to launch the Yom Kippur War misperceived despite the fact that Israeli Intelligence had ample and accurate information on enemy moves and dispositions? In this anatomy of the Israeli intelligence failure, extensive use is made of the report of the official commission of inquiry that investigated the events leading up to the war. The article is equally concerned with the phenomenon of strategic surprise in general, and this case study is used to explore the psychological and organizational roots of intelligence failures. Some safeguards and institutional reforms for reducing the frequency of failure are examined. However, there is no suggestion that surprise can ever be eliminated altogether. In conclusion a case is made for developing a theory of intelligence through case studies and systematic research.

Hindsight and Foresight: A Conceptual Framework for the Analysis of Surprise Attacks

By A. BEN-ZVI

As a step toward further conceptualization and differentiation of the problem of surprise attacks, this article suggests a new framework for analyzing the assumptions of decision makers. Two main categories are distinguished: (1) strategic assumptions of possibilities—the explicit and implicit assumptions held by an "observing state" about the conditions and circumstances under which the "observed state" would strike; (2) tactical assumptions of actualities—assumptions that have become realities in the eyes of the observing state, or that are on the verge of realization. Five cases of failures in intelligence estimates are discussed: (1) the Barbarossa Operation; (2) the attack on Pearl Harbor; (3) the Chinese Intervention in the Korean War; (4) the Sino-Indian Border War of October 1962; (5) the Arab-Israeli War of October 1973.

The analysis indicates that in each case, when discrepancies existed between tactical assumptions of actualities and strategic assumptions of possibilities, the latter prevailed without reassessment of the situation.

Corporate Preferences and Public Policies: Foreign Aid Sanctions and Investment Protection

By C. H. LIPSON

Since 1959 Congress has tried to protect U.S. direct foreign investments from expropriation by quite explicit amendments to various foreign assistance acts. Probably

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the most important of these legislative efforts, the Hickenlooper amendment, the Gonzales amendments, and the effective repeal of the Hickenlooper amendment, are contradictory and have been applied only sporadically. By developing testable hypotheses that can accurately and parsimoniously predict these varied legislative and diplomatic policies, this article attempts to demonstrate the value of a radical analysis of American foreign policy. After those hypotheses are evaluated, they are compared with propositions derived from pluralist and bureaucratic analysis. Finally, the policy history is reconsidered to show that changes in the external environment, particularly the rise of economically powerful nationalist regimes, have let to a significant evolution in the policy preferences of large multinational firms.

Bureaucratic Politics and the World Food Conference: The International Policy Process

By T. G. WEISS and R. S. JORDAN

It is generally recognized that there are enormous difficulties, bureaucratic as well as political, that attend attempts to ameliorate human problems which arise from the growing interdependence of states. The policy challenge therefore is how to create—or alternatively, how to understand and then to reform—the existing machinery of international administration to enable it to cope with interdependence. The World Food Conference, held in Rome on November 5-16, 1974, was not only an exercise in *ad hoc* multilateral diplomacy designed to meet the immediate threats of the food crisis; it was also an attempt to rebuild the international food bureaucracy, either by replacing the Food and Agriculture Organization or by reforming it. The Conference largely succeeded in this task; it created a World Food Council, organizationally linked to the FAO in Rome, but separately responsible to the UN General Assembly through the Economic and Social Council. Thus, an examination of the leadership of the Secretariat of the World Food Conference provides a classic case for the study of bureaucratic politics: an international secretariat not merely indirectly influenced the shape of policy; *it actually made policy.*

Societal Manipulation in a Multiethnic Polity

By J. A. ARMSTRONG

Five major Soviet books published during the early 1970's are examined comparatively, partly as examples of the continuing productivity of Soviet social science research. Utilizing approaches ranging from onomastics to regional geography and survey research, the books all examine how the Soviet Union has confronted modernization. All employ an extended historical perspective, and all deal at length with the multiethnic aspect of the Soviet polity. Survey data on ethnic attitudes in Latvia and the Ukraine and the theoretical and empirical analysis of the differences in urban and rural values among Russians and Tatars are especially interesting. Although all the authors adhere to Marxism-Leninism, their viewpoints differ significantly; some imply that, in important respects, outcomes of the Soviet modernization process are not very different from outcomes in Western societies.

Law, Morality, and War after Vietnam

By D. P. FORSYTHE

Part of the problem in devising effective law for the regulation of war is the difficulty of securing a stable combination of expediential and moral concerns. In law to regulate recourse to war (*jus ad bellum*) and intervention, important actors in world politics seek to make moral exceptions to, or moral changes in, a law oriented to the self-interest of states. As a result, there are claims to "just wars" and humanitarian interventions. Likewise, law to regulate the process of war (*jus in bello*) is based on a combination of moral and expediential values, with the two sometimes in tension. An interplay of these two concerns is also found in applications of international law to internal war and to individuals responsible for acts in war. Although the search for an acceptable combination of expediential and moral values is a difficult one, expediency alone—in the form of national interest—cannot provide a basis for effective law to regulate war.

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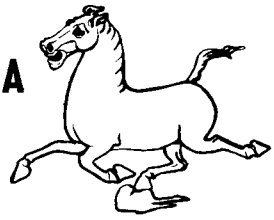

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STATE POWER AND THE STRUCTURE OF INTERNATIONAL TRADE

By STEPHEN D. KRASNER*

Introduction

In recent years, students of international relations have multinationalized, transnationalized, bureaucratized, and transgovernmentalized the state until it has virtually ceased to exist as an analytic construct. Nowhere is that trend more apparent than in the study of the politics of international economic relations. The basic conventional assumptions have been undermined by assertions that the state is trapped by a transnational society created not by sovereigns, but by nonstate actors. Interdependence is not seen as a reflection of state policies and state choices (the perspective of balance-of-power theory), but as the result of elements beyond the control of any state or a system created by states.

This perspective is at best profoundly misleading. It may explain developments within a particular international economic structure, but it cannot explain the structure itself. That structure has many institutional and behavioral manifestations. The central continuum along which it can be described is openness. International economic structures may range from complete autarky (if all states prevent movements across their borders), to complete openness (if no restrictions exist). In this paper I will present an analysis of one aspect of the international economy—the structure of international trade; that is, the degree of openness for the movement of goods as opposed to capital, labor, technology, or other factors of production.

Since the beginning of the nineteenth century, this structure has gone through several changes. These can be explained, albeit imperfectly, by a state-power theory: an approach that begins with the assumption that the structure of international trade is determined by the interests and power of states acting to maximize national goals. The first step in this argument is to relate four basic state interests—aggregate national

* I would like to thank Robert Art, Peter Gourevitch, Samuel Huntington, Robert Keohane, Rachel McCulloch, Joseph Nye, Ronald Rogowski, and Robert W. Tucker for their comments. My greatest intellectual debt, and one not adequately reflected in the footnotes, is to Robert Gilpin. Completion of this paper was made possible by support from the Washington Center of Foreign Policy Research of the Johns Hopkins School of Advanced International Studies and the Center for International Affairs at Harvard University.

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income, social stability, political power, and economic growth—to the degree of openness for the movement of goods. The relationship between these interests and openness depends upon the potential economic power of any given state. Potential economic power is operationalized in terms of the relative size and level of economic development of the state. The second step in the argument is to relate different distributions of potential power, such as multipolar and hegemonic, to different international trading structures. The most important conclusion of this theoretical analysis is that a hegemonic distribution of potential economic power is likely to result in an open trading structure. That argument is largely, although not completely, substantiated by empirical data. For a fully adequate analysis it is necessary to amend a state-power argument to take account of the impact of past state decisions on domestic social structures as well as on international economic ones. The two major organizers of the structure of trade since the beginning of the nineteenth century, Great Britain and the United States, have both been prevented from making policy amendments in line with state interests by particular societal groups whose power had been enhanced by earlier state policies.

The Causal Argument: State Interests, State Power, and International Trading Structures

Neoclassical trade theory is based upon the assumption that states act to maximize their aggregate economic utility. This leads to the conclusion that maximum global welfare and Pareto optimality are achieved under free trade. While particular countries might better their situations through protectionism, economic theory has generally looked askance at such policies. In his seminal article on the optimal tariff, Harry Johnson was at pains to point out that the imposition of successive optimal tariffs could lead both trading partners to a situation in which they were worse off than under competitive conditions.[1] Neoclassical theory recognizes that trade regulations can also be used to correct domestic distortions and to promote infant industries,[2] but these are exceptions or temporary departures from policy conclusions that lead logically to the support of free trade.

[1] Johnson, "Optimum Tariffs and Retaliation," in Harry Johnson, *International Trade and Economic Growth* (Cambridge: Harvard University Press 1967), 31-61.

[2] See, for instance, Everett Hagen, "An Economic Justification of Protectionism," *Quarterly Journal of Economics*, Vol. 72 (November 1958), 496-514; Harry Johnson, "Optimal Trade Intervention in the Presence of Domestic Distortions," in Robert Baldwin and others, *Trade, Growth and the Balance of Payments: Essays in Honor of Gottfried Haberler* (Chicago: Rand McNally 1965), 3-34; and Jagdish Bhagwati, *Trade, Tariffs, and Growth* (Cambridge: MIT Press 1969), 295-308.

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STATE PREFERENCES

Historical experience suggests that policy makers are dense, or that the assumptions of the conventional argument are wrong. Free trade has hardly been the norm. Stupidity is not a very interesting analytic category. An alternative approach to explaining international trading structures is to assume that states seek a broad range of goals. At least four major state interests affected by the structure of international trade can be identified. They are: political power, aggregate national income, economic growth, and social stability. The way in which each of these goals is affected by the degree of openness depends upon the potential economic power of the state as defined by its relative size and level of development.

Let us begin with aggregate national income because it is most straightforward. Given the exceptions noted above, conventional neoclassical theory demonstrates that the greater the degree of openness in the international trading system, the greater the level of aggregate economic income. This conclusion applies to all states regardless of their size or relative level of development. The static economic benefits of openness are, however, generally inversely related to size. Trade gives small states relatively more welfare benefits than it gives large ones. Empirically, small states have higher ratios of trade to national product. They do not have the generous factor endowments or potential for national economies of scale that are enjoyed by larger—particularly continental—states.

The impact of openness on social stability runs in the opposite direction. Greater openness exposes the domestic economy to the exigencies of the world market. That implies a higher level of factor movements than in a closed economy, because domestic production patterns must adjust to changes in international prices. Social instability is thereby increased, since there is friction in moving factors, particularly labor, from one sector to another. The impact will be stronger in small states than in large, and in relatively less developed than in more developed ones. Large states are less involved in the international economy: a smaller percentage of their total factor endowment is affected by the international market at any given level of openness. More developed states are better able to adjust factors: skilled workers can more easily be moved from one kind of production to another than can unskilled laborers or peasants. Hence social stability is, *ceteris paribus*, inversely related to openness, but the deleterious consequences of exposure to the international trading system are mitigated by larger size and greater economic development.

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The relationship between political power and the international trading structure can be analyzed in terms of the relative opportunity costs of closure for trading partners.[3] The higher the relative cost of closure, the weaker the political position of the state. Hirschman has argued that this cost can be measured in terms of direct income losses and the adjustment costs of reallocating factors.[4] These will be smaller for large states and for relatively more developed states. Other things being equal, utility costs will be less for large states because they generally have a smaller proportion of their economy engaged in the international economic system. Reallocation costs will be less for more advanced states because their factors are more mobile. Hence a state that is relatively large and more developed will find its political power enhanced by an open system because its opportunity costs of closure are less. The large state can use the threat to alter the system to secure economic or noneconomic objectives. Historically, there is one important exception to this generalization—the oil-exporting states. The level of reserves for some of these states, particularly Saudi Arabia, has reduced the economic opportunity costs of closure to a very low level despite their lack of development.

The relationship between international economic structure and economic growth is elusive. For small states, economic growth has generally been empirically associated with openness.[5] Exposure to the international system makes possible a much more efficient allocation of resources. Openness also probably furthers the rate of growth of large countries with relatively advanced technologies because they do not need to protect infant industries and can take advantage of expanded world markets. In the long term, however, openness for capital and technology, as well as goods, may hamper the growth of large, developed countries by diverting resources from the domestic economy, and by providing potential competitors with the knowledge needed to develop their own industries. Only by maintaining its technological lead and continually developing new industries can even a very large state escape the undesired consequences of an entirely open economic system. For medium-size states, the relationship between international trading structure and growth is impossible to specify definitively,

[3] This notion is reflected in Albert O. Hirschman, *National Power and the Structure of Foreign Trade* (Berkeley: University of California Press 1945); Robert W. Tucker, *The New Isolationism: Threat or Promise?* (Washington: Potomac Associates 1972); and Kenneth Waltz, "The Myth of Interdependence," in Charles P. Kindleberger, ed., *The International Corporation* (Cambridge: MIT Press 1970), 205-23.

[4] Hirschman (fn.3), 13-34.

[5] Simon Kuznets, *Modern Economic Growth: Rate, Structure, and Spread* (New Haven: Yale University Press 1966), 302.

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either theoretically or empirically. On the one hand, writers from the mercantilists through the American protectionists and the German historical school, and more recently analysts of *dependencia*, have argued that an entirely open system can undermine a state's effort to develop, and even lead to underdevelopment.[6] On the other hand, adherents of more conventional neoclassical positions have maintained that exposure to international competition spurs economic transformation.[7] The evidence is not yet in. All that can confidently be said is that openness furthers the economic growth of small states and of large ones so long as they maintain their technological edge.

FROM STATE PREFERENCES TO INTERNATIONAL TRADING STRUCTURES

The next step in this argument is to relate particular distributions of potential economic power, defined by the size and level of development of individual states, to the structure of the international trading system, defined in terms of openness.

Let us consider a system composed of a large number of small, highly developed states. Such a system is likely to lead to an open international trading structure. The aggregate income and economic growth of each state are increased by an open system. The social instability produced by exposure to international competition is mitigated by the factor mobility made possible by higher levels of development. There is no loss of political power from openness because the costs of closure are symmetrical for all members of the system.

Now let us consider a system composed of a few very large, but unequally developed states. Such a distribution of potential economic power is likely to lead to a closed structure. Each state could increase its income through a more open system, but the gains would be modest. Openness would create more social instability in the less developed countries. The rate of growth for more backward areas might be

[6] See David P. Calleo and Benjamin Rowland, *America and the World Political Economy* (Bloomington: Indiana University Press 1973), Part II, for a discussion of American thought; Eli Heckscher, *Mercantilism* (New York: Macmillan 1955); and D. C. Coleman, ed., *Revisions in Mercantilism* (London: Methuen 1969), for the classic discussion and a collection of recent articles on mercantilism; Andre Gunder Frank, *Latin America: Underdevelopment or Revolution* (New York: Monthly Review 1969); Arghiri Emmanuel, *Unequal Exchange: A Study of the Imperialism of Trade* (New York: Monthly Review 1972); and Johan Galtung, "A Structural Theory of Imperialism," *Journal of Peace Research*, VIII, No. 2 (1971), 81-117, for some representative arguments about the deleterious effects of free trade.

[7] See Gottfried Haberler, *International Trade and Economic Development* (Cairo: National Bank of Egypt 1959); and Carlos F. Diaz-Alejandro, "Latin America: Toward 2000 A.D.," in Jagdish Bhagwati, ed., *Economics and World Order from the 1970s to the 1990s* (New York: Macmillan 1972), 223-55, for some arguments concerning the benefits of trade.

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frustrated, while that of the more advanced ones would be enhanced. A more open structure would leave the less developed states in a politically more vulnerable position, because their greater factor rigidity would mean a higher relative cost of closure. Because of these disadvantages, large but relatively less developed states are unlikely to accept an open trading structure. More advanced states cannot, unless they are militarily much more powerful, force large backward countries to accept openness.

Finally, let us consider a hegemonic system—one in which there is a single state that is much larger and relatively more advanced than its trading partners. The costs and benefits of openness are not symmetrical for all members of the system. The hegemonic state will have a preference for an open structure. Such a structure increases its aggregate national income. It also increases its rate of growth during its ascendency—that is, when its relative size and technological lead are increasing. Further, an open structure increases its political power, since the opportunity costs of closure are least for a large and developed state. The social instability resulting from exposure to the international system is mitigated by the hegemonic power's relatively low level of involvement in the international economy, and the mobility of its factors.

What of the other members of a hegemonic system? Small states are likely to opt for openness because the advantages in terms of aggregate income and growth are so great, and their political power is bound to be restricted regardless of what they do. The reaction of medium-size states is hard to predict; it depends at least in part on the way in which the hegemonic power utilizes its resources. The potentially dominant state has symbolic, economic, and military capabilities that can be used to entice or compel others to accept an open trading structure.

At the symbolic level, the hegemonic state stands as an example of how economic development can be achieved. Its policies may be emulated, even if they are inappropriate for other states. Where there are very dramatic asymmetries, military power can be used to coerce weaker states into an open structure. Force is not, however, a very efficient means for changing economic policies, and it is unlikely to be employed against medium-size states.

Most importantly, the hegemonic state can use its economic resources to create an open structure. In terms of positive incentives, it can offer access to its large domestic market and to its relatively cheap exports. In terms of negative ones, it can withhold foreign grants and engage

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in competition, potentially ruinous for the weaker state, in third-country markets. The size and economic robustness of the hegemonic state also enable it to provide the confidence necessary for a stable international monetary system, and its currency can offer the liquidity needed for an increasingly open system.

In sum, openness is most likely to occur during periods when a hegemonic state is in its ascendency. Such a state has the interest and the resources to create a structure characterized by lower tariffs, rising trade proportions, and less regionalism. There are other distributions of potential power where openness is likely, such as a system composed of many small, highly developed states. But even here, that potential might not be realized because of the problems of creating confidence in a monetary system where adequate liquidity would have to be provided by a negotiated international reserve asset or a group of national currencies. Finally, it is unlikely that very large states, particularly at unequal levels of development, would accept open trading relations.

These arguments, and the implications of other ideal typical configurations of potential economic power for the openness of trading structures, are summarized in the following chart.

		Size of States		
		RELATIVELY EQUAL		VERY UNEQUAL
		SMALL	LARGE	
Level of Development of States	EQUAL	Moderate-High	Low-Moderate	High
	UNEQUAL	Moderate	Low	Moderate-High

CHART I. PROBABILITY OF AN OPEN TRADING STRUCTURE WITH DIFFERENT DISTRIBUTIONS OF POTENTIAL ECONOMIC POWER

THE DEPENDENT VARIABLE: DESCRIBING THE STRUCTURE OF THE INTERNATIONAL TRADING SYSTEM

The structure of international trade has both behavioral and institutional attributes. The degree of openness can be described both by the *flow* of goods and by the *policies* that are followed by states with respect to trade barriers and international payments. The two are not unrelated, but they do not coincide perfectly.

In common usage, the focus of attention has been upon institutions. Openness is associated with those historical periods in which tariffs

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were substantially lowered: the third quarter of the nineteenth century and the period since the Second World War.

Tariffs alone, however, are not an adequate indicator of structure. They are hard to operationalize quantitatively. Tariffs do not have to be high to be effective. If cost functions are nearly identical, even low tariffs can prevent trade. Effective tariff rates may be much higher than nominal ones. Non-tariff barriers to trade, which are not easily compared across states, can substitute for duties. An undervalued exchange rate can protect domestic markets from foreign competition. Tariff levels alone cannot describe the structure of international trade.[8]

A second indicator, and one which is behavioral rather than institutional, is trade proportions—the ratios of trade to national income for different states. Like tariff levels, these involve describing the system in terms of an agglomeration of national tendencies. A period in which these ratios are increasing across time for most states can be described as one of increasing openness.

A third indicator is the concentration of trade within regions composed of states at different levels of development. The degree of such regional encapsulation is determined not so much by comparative advantage (because relative factor endowments would allow almost any backward area to trade with almost any developed one), but by political choices or dictates. Large states, attempting to protect themselves from the vagaries of a global system, seek to maximize their interests by creating regional blocs. Openness in the global economic system has in effect meant greater trade among the leading industrial states. Periods of closure are associated with the encapsulation of certain advanced states within regional systems shared with certain less developed areas.

A description of the international trading system involves, then, an exercise that is comparative rather than absolute. A period when tariffs are falling, trade proportions are rising, and regional trading patterns are becoming less extreme will be defined as one in which the structure is becoming more open.

TARIFF LEVELS

The period from the 1820's to 1879 was basically one of decreasing tariff levels in Europe. The trend began in Great Britain in the 1820's,

[8] See Harry Johnson, *Economic Policies Toward Less Developed Countries* (New York: Praeger 1967), 90-94, for a discussion of nominal versus effective tariffs; Bela Belassa, *Trade Liberalization among Industrial Countries* (New York: McGraw-Hill 1967), chap. 3, for the problems of determining the height of tariffs; and Hans O. Schmitt, "International Monetary System: Three Options for Reform," *International Affairs*, L (April 1974), 200, for similar effects of tariffs and undervalued exchange rates.

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with reductions of duties and other barriers to trade. In 1846 the abolition of the Corn Laws ended agricultural protectionism. France reduced duties on some intermediate goods in the 1830's, and on coal, iron, and steel in 1852. The *Zollverein* established fairly low tariffs in 1834. Belgium, Portugal, Spain, Piedmont, Norway, Switzerland, and Sweden lowered imposts in the 1850's. The golden age of free trade began in 1860, when Britain and France signed the Cobden-Chevalier Treaty, which virtually eliminated trade barriers. This was followed by a series of bilateral trade agreements between virtually all European states. It is important to note, however, that the United States took little part in the general movement toward lower trade barriers.[9]

The movement toward greater liberality was reversed in the late 1870's. Austria-Hungary increased duties in 1876 and 1878, and Italy also in 1878; but the main breach came in Germany in 1879. France increased tariffs modestly in 1881, sharply in 1892, and raised them still further in 1910. Other countries followed a similar pattern. Only Great Britain, Belgium, the Netherlands, and Switzerland continued to follow free-trade policies through the 1880's. Although Britain did not herself impose duties, she began establishing a system of preferential markets in her overseas Empire in 1898.[10] The United States was basically protectionist throughout the nineteenth century. The high tariffs imposed during the Civil War continued with the exception of a brief period in the 1890's. There were no major duty reductions before 1914.

During the 1920's, tariff levels increased further. Western European states protected their agrarian sectors against imports from the Danube region, Australia, Canada, and the United States, where the war had stimulated increased output. Great Britain adopted some colonial preferences in 1919, imposed a small number of tariffs in 1921, and extended some wartime duties. The successor states of the Austro-Hungarian Empire imposed duties to achieve some national self-sufficiency. The British dominions and Latin America protected industries nurtured by wartime demands. In the United States the Fordney-

[9] Charles P. Kindleberger, "The Rise of Free Trade in Western Europe 1820-1875," *The Journal of Economic History*, XXXV (March 1975), 20-55; Sidney Pollard, *European Economic Integration 1815–1970* (London: Thames and Hudson 1974), 117; J. B. Condliffe, *The Commerce of Nations* (New York: Norton 1950), 212-23, 229-30.

[10] Charles P. Kindleberger, "Group Behavior and International Trade," *Journal of Political Economy*, Vol. 59 (February 1951), 33; Condliffe (fn. 9), 498; Pollard (fn. 9), 121; and Peter A. Gourevitch, "International Trade, Domestic Coalitions, and Liberty: Comparative Responses to the Great Depression of 1873–1896," paper delivered to the International Studies Association Convention, Washington, 1973.

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McCumber Tariff Act of 1922 increased protectionism. The October Revolution removed Russia from the Western trading system.[11]

Dramatic closure in terms of tariff levels began with the passage of the Smoot-Hawley Tariff Act in the United States in 1930. Britain raised tariffs in 1931 and definitively abandoned free trade at the Ottawa Conference of 1932, which introduced extensive imperial preferences. Germany and Japan established trading blocs within their own spheres of influence. All other major countries followed protectionist policies.[12]

Significant reductions in protection began after the Second World War; the United States had foreshadowed the movement toward greater liberality with the passage of the Reciprocal Trade Agreements Act in 1934. Since 1945 there have been seven rounds of multilateral tariff reductions. The first, held in 1947 at Geneva, and the Kennedy Round, held during the 1960's, have been the most significant. They have substantially reduced the level of protection.[13]

The present situation is ambiguous. There have recently been some new trade controls. In the United States these include a voluntary import agreement for steel, the imposition of a 10 per cent import surcharge during four months of 1971, and export controls on agricultural products in 1973 and 1974. Italy imposed a deposit requirement on imports during parts of 1974 and 1975. Britain and Japan have engaged in export subsidization. Non-tariff barriers have become more important. On balance, there has been movement toward greater protectionism since the end of the Kennedy Round, but it is not decisive. The outcome of the multilateral negotiations that began in 1975 remains to be seen.

In sum, after 1820 there was a general trend toward lower tariffs (with the notable exception of the United States), which culminated between 1860 and 1879; higher tariffs from 1879 through the interwar years, with dramatic increases in the 1930's; and less protectionism from 1945 through the conclusion of the Kennedy Round in 1967.

TRADE PROPORTIONS

With the exception of one period, ratios of trade to aggregate economic activity followed the same general pattern as tariff levels. Trade proportions increased from the early part of the nineteenth century

[11] Charles P. Kindelberger, *The World in Depression* (Berkeley: University of California Press 1973), 171; Condliffe (fn. 9), 478-81.

[12] Condliffe (fn. 9), 498; Robert Gilpin, "The Politics of Transnational Economic Relations," *International Organization*, XXV (Summer 1971), 407; Kindelberger (fn. 11), 132, 171.

[13] John W. Evans, *The Kennedy Round in American Trade Policy* (Cambridge: Harvard University Press 1971), 10-20.

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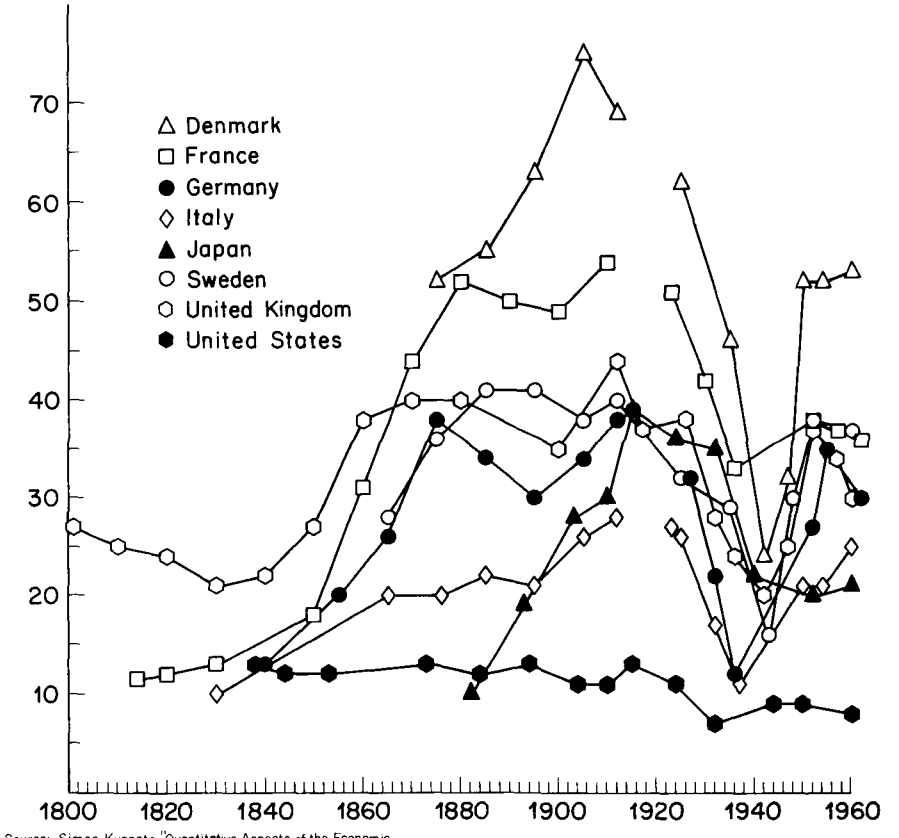
to about 1880. Between 1880 and 1900 there was a decrease, sharper if measured in current prices than constant ones, but apparent in both statistical series for most countries. Between 1900 and 1913—and here is the exception from the tariff pattern—there was a marked increase in the ratio of trade to aggregate economic activity. This trend brought trade proportions to levels that have generally not been reattained. During the 1920's and 1930's the importance of trade in national economic activity declined. After the Second World War it increased.

Diagram I presents these findings in greater detail. There are considerable differences in the movement of trade proportions among states. They hold more or less constant for the United States; Japan, Denmark, and Norway (the last not shown on the graph) are unaffect-



Source: Simon Kuznets, "Quantitative Aspects of the Economic Growth of Nations: X. Level and Structure of Foreign Trade: Long-Term Trends", *Economic Development and Cultural Change*, XV (1967), Appendix I. In all cases the mid-points of Kuznets periods were used.

DIAGRAM I. RATIO OF TRADE TO AGGREGATE ECONOMIC ACTIVITY, NINETEENTH CENTURY–1960, AT CURRENT PRICES

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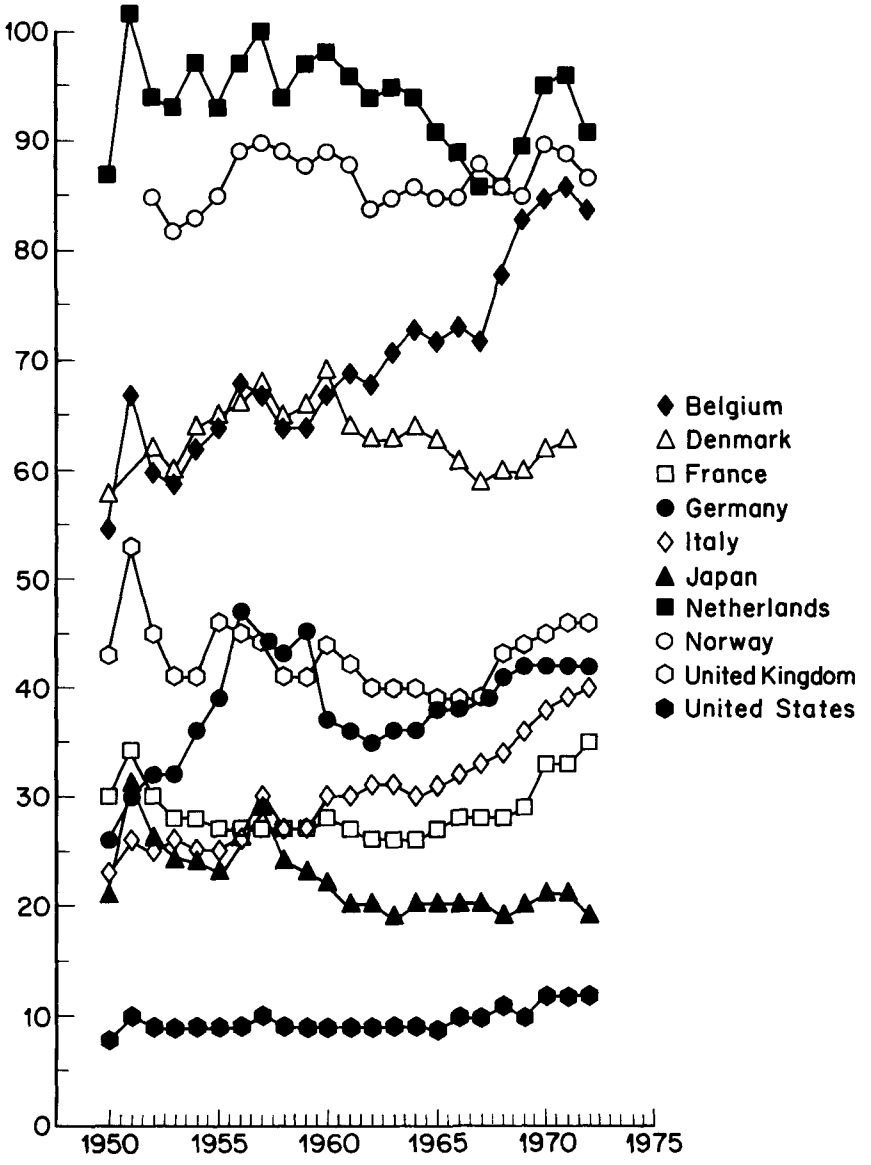
ed by the general decrease in the ratio of trade to aggregate economic activity that takes place after 1880. The pattern described in the previous paragraph does, however, hold for Great Britain, France, Sweden, Germany, and Italy.

Diagram II shows postwar developments. Because of the boom in



Source: United Nations, *Yearbook of National Account Statistics*, various years.

DIAGRAM II. RATIO OF TRADE TO GROSS DOMESTIC PRODUCT, 1950–1972, AT CURRENT PRICES

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commodity prices that occurred in the early 1950's, the ratio of trade to gross domestic product was relatively high for larger states during these years, at least in current prices. It then faltered or remained constant until about 1960. From the early 1960's through 1972, trade proportions rose for all major states except Japan. Data for 1973 and 1974 show further increases. For smaller countries the trend was more erratic, with Belgium showing a more or less steady increase, Norway vacillating between 82 and 90 per cent, and Denmark and the Netherlands showing higher figures for the late 1950's than for more recent years. There is then, in current prices, a generally upward trend in trade proportions since 1960, particularly for larger states. This movement is more pronounced if constant prices are used.[14]

REGIONAL TRADING PATTERNS

The final indicator of the degree of openness of the global trading system is regional bloc concentration. There is a natural affinity for some states to trade with others because of geographical propinquity or comparative advantage. In general, however, a system in which there are fewer manifestations of trading within given blocs, particularly among specific groups of more and less developed states, is a more open one. Over time there have been extensive changes in trading patterns between particular areas of the world whose relative factor endowments have remained largely the same.

Richard Chadwick and Karl Deutsch have collected extensive information on international trading patterns since 1890. Their basic datum is the relative acceptance indicator (RA), which measures deviations from a null hypothesis in which trade between a pair of states, or a state and a region, is precisely what would be predicted on the basis of their total share of international trade.[15] When the null hypothesis holds, the RA indicator is equal to zero. Values less than zero indicate less trade than expected, greater than zero more trade than expected. For our purposes the critical issue is whether, over time, trade tends to become more concentrated as shown by movements away from zero, or less as shown by movements toward zero.

Table I presents figures for the years 1890, 1913, 1928, 1938, 1954,

[14] Figures are available in United Nations, *Yearbook of National Account Statistics*, various years.

[15] Richard I. Savage and Karl W. Deutsch, "A Statistical Model of the Gross Analysis of Transaction Flows," *Econometrica*, XXVIII (July 1960), 551-72. Richard Chadwick and Karl W. Deutsch, in "International Trade and Economic Integration: Further Developments in Trade Matrix Analysis," *Comparative Political Studies*, VI (April 1973), 84-109, make some amendments to earlier methods of calculation when regional groupings are being analyzed. These are not reflected in Table I. I am indebted to Professor Deutsch for giving me access to the unpublished data presented in the table.

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and 1958 through 1968, the set collected by Chadwick and Deutsch, for the following pairs of major states and regions: Commonwealth-United Kingdom; United States-Latin America; Russia-Eastern Europe; and France-French speaking Africa. The region's percentage of exports to the country, and the country's percentage of imports from the region, are included along with RA indicators to give some sense of the overall importance of the particular trading relationship.

There is a general pattern. In three of the four cases, the RA value closest to zero—that is the least regional encapsulation—occurred in 1890, 1913, or 1928; in the fourth case (France and French West Africa), the 1928 value was not bettered until 1964. In every case there was an increase in the RA indicator between 1928 and 1938, reflecting the breakdown of international commerce that is associated with the depression. Surprisingly, the RA indicator was higher for each of the four pairs in 1954 than in 1938, an indication that regional patterns persisted and even became more intense in the postwar period. With the exception of the Soviet Union and Eastern Europe, there was a general trend toward decreasing RA's for the period after 1954. They still, however, show fairly high values even in the late 1960's.

If we put all three indicators—tariff levels, trade proportions, and trade patterns—together, they suggest the following periodization.

Period I (1820–1879): Increasing openness—tariffs are generally lowered; trade proportions increase. Data are not available for trade patterns. However, it is important to note that this is not a universal pattern. The United States is largely unaffected: its tariff levels remain high (and are in fact increased during the early 1860's) and American trade proportions remain almost constant.

Period II (1879–1900): Modest closure—tariffs are increased; trade proportions decline modestly for most states. Data are not available for trade patterns.

Period III (1900–1913): Greater openness—tariff levels remain generally unchanged; trade proportions increase for all major trading states except the United States. Trading patterns become less regional in three out of the four cases for which data are available.

Period IV (1918–1939): Closure—tariff levels are increased in the 1920's and again in the 1930's; trade proportions decline. Trade becomes more regionally encapsulated.

Period V (1945–c. 1970): Great openness—tariffs are lowered; trade proportions increase, particularly after 1960. Regional concentration

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Table I. Regional Trading Patterns

	Commonwealth to United Kingdom			Latin America* to United States		
	Relative Acceptance Indicator	*Percentage of Commonwealth Exports to United Kingdom*	*Percentage of United Kingdom Imports from Commonwealth*	*Relative Acceptance Indicator*	*Percentage of Latin America Exports to United States*	*Percentage of United States Imports from Latin America*
1890	1.64	6.51	9.83	— .14	9.86	2.91
1913	1.49	17.74	28.97	.45	19.47	8.05
1928	.72	17.55	26.49	1.27	30.21	17.41
1938	1.28	25.44	35.44	1.54	26.59	16.56
1954	1.60	18.54	38.47	2.04	42.76	19.07
1958	1.89	15.91	36.82	1.86	42.95	13.00
1959	1.77	15.78	36.79	1.68	42.87	11.66
1960	1.74	15.68	33.96	1.89	40.39	11.56
1961	1.66	14.27	33.15	2.03	39.78	11.82
1962	1.72	13.47	32.24	1.81	38.05	10.87
1963	1.62	13.06	31.67	1.84	37.02	11.13
1964	1.59	13.66	31.85	1.71	34.45	10.07
1965	1.47	11.53	27.42	1.43	32.66	9.01
1966	1.26	10.24	25.09	1.18	31.86	8.09
1967	1.08	9.82	22.90	1.13	31.47	7.26
1968	1.02	8.74	21.55	1.11	35.85	6.02

* Includes Argentina, Bolivia, Brazil, Chile, Colombia, Ecuador, Mexico, Paraguay.

	Russia to Eastern Europe			France to French Africa		
	Relative Acceptance Indicator	*Percentage of Eastern Europe Exports to Russia*	*Percentage of Russian Imports from Eastern Europe*	*Relative Acceptance Indicator*	*Percentage of French African Exports to France*	*Percentage of French Imports from French Africa*
1890	— .42	1.04	.58	9.57	100.00	.08
1913	.07	1.07	.79	7.24	53.59	.89
1928	.57	1.53	5.86	5.85	39.09	3.03
1938	— .25	.70	3.75	7.22	44.12	5.02
1954	9.94	22.78	60.89	7.76	41.25	10.73
1958	8.85	23.13	55.01	7.77	41.13	8.14
1959	8.40	22.51	55.17	7.34	34.62	6.78
1960	8.48	22.73	56.08	6.87	35.16	7.15
1961	9.04	24.12	61.76	6.85	36.60	7.13
1962	9.01	25.55	63.00	6.60	38.76	6.34
1963	9.09	26.84	65.28	6.14	38.92	5.63
1964	9.22	26.73	64.18	5.55	36.41	5.28
1965	9.44	26.00	65.68	5.48	34.19	4.86
1966	9.90	24.24	64.77	4.90	32.64	4.69
1967	9.98	25.34	67.37	3.85	26.74	3.40
1968	11.78	33.84	67.06	7.58	46.18	2.57

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decreases after 1960. However, these developments are limited to non-Communist areas of the world.

The Independent Variable: Describing the Distribution of Potential Economic Power Among States

Analysts of international relations have an almost pro forma set of variables designed to show the distribution of potential power in the international *political* system. It includes such factors as gross national product, per capita income, geographical position, and size of armed forces. A similar set of indicators can be presented for the international *economic* system.

Statistics are available over a long time period for per capita income, aggregate size, share of world trade, and share of world investment. They demonstrate that, since the beginning of the nineteenth century, there have been two first-rank economic powers in the world economy —Britain and the United States. The United States passed Britain in aggregate size sometime in the middle of the nineteenth century and, in the 1880's, became the largest producer of manufactures. America's lead was particularly marked in technologically advanced industries turning out sewing machines, harvesters, cash registers, locomotives, steam pumps, telephones, and petroleum.[16] Until the First World War, however, Great Britain had a higher per capita income, a greater share of world trade, and a greater share of world investment than any other state. The peak of British ascendance occurred around 1880, when Britain's relative per capita income, share of world trade, and share of investment flows reached their highest levels. Britain's potential dominance in 1880 and 1900 was particularly striking in the international economic system, where her share of trade and foreign investment was about twice as large as that of any other state.

It was only after the First World War that the United States became relatively larger and more developed in terms of all four indicators. This potential dominance reached new and dramatic heights between 1945 and 1960. Since then, the relative position of the United States has declined, bringing it quite close to West Germany, its nearest rival, in terms of per capita income and share of world trade. The devaluations of the dollar that have taken place since 1972 are reflected in a continuation of this downward trend for income and aggregate size.

The relative potential economic power of Britain and the United States is shown in the following two tables.

[16] League of Nations, *Industrialization and Foreign Trade* (1945, II.A.10), 13; Mira Wilkins, *The Emergence of Multinational Enterprise* (Cambridge: Harvard University Press 1970), 45-65.

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TABLE II. INDICATORS OF BRITISH POTENTIAL POWER
(Ratio of British value to next highest)

	Per Capita Income	*Aggregate Size*	*Share of World Trade*	*Share of World Investment**
1860	.91(US)	.74(US)	2.01(FR)	n.a.
1880	1.30(US)	.79(1874–83 US)	2.22(FR)	1.93(FR)
1900	1.05(1899 US)	.58(1899 US)	2.17(1890 GERM)	2.08(FR)
1913	.92(US)	.43(US)	1.20(US)	2.18(1914 FR)
1928	.66(US)	.25(1929 US)	.79(US)	.64(1921–29 US)
1937	.79(US)	.29(US)	.88(US)	.18(1930–38 US)
1950	.56(US)	.19(US)	.69(US)	.13(1951–55 US)
1960	.49(US)	.14(US)	.46(1958 US)	.15(1956–61 US)
1972	.46(US)	.13(US)	.47(1973 US)	n.a.

*Stock 1870–1913; Flow 1928–1950
Years are in parentheses when different from those in first column.
Countries in parentheses are those with the largest values for the particular indicator other than Great Britain.
Source: Derived from figures in Appendix.

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Table III. Indicators of U.S. Potential Power
(Ratio of U.S. value to next highest)

	Per Capita Income	*Aggregate Size*	*Share of World Trade*	*Share of World Investment Flows*
1860	1.10(GB)	1.41(GB)	.36(GB)	Net debtor
1880	.77(GB)	1.23(1883 GB)	.37(GB)	Net debtor
1900	.95(1899 GB)	1.73(1899 GB)	.43(1890 GB)	n.a.
1913	1.09(GB)	2.15(RUS)	.83(GB)	Net debtor
1928	1.51(GB)	3.22(USSR)	1.26(GB)	1.55(1921–20 UK)
1937	1.26(GB)	2.67(USSR)	1.13(GB)	5.53(1930–38 UK)
1950	1.78(GB)	3.15(USSR)	1.44(GB)	7.42(1951–55 UK)
1960	2.05(GB)	2.81(USSR)	2.15(1958 GB)	6.60(1956–61 UK)
1972	1.31(GERM)	n.a.	1.18(1973 GERM)	n.a.

Years are in parentheses when different from those in first column.
Countries in parentheses are those with the largest values for the particular indicator other than the United States.
Source: Derived from figures in Appendix.

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In sum, Britain was the world's most important trading state from the period after the Napoleonic Wars until 1913. Her relative position rose until about 1880 and fell thereafter. The United States became the largest and most advanced state in economic terms after the First World War, but did not equal the relative share of world trade and investment achieved by Britain in the 1880's until after the Second World War.

Testing the Argument

The contention that hegemony leads to a more open trading structure is fairly well, but not perfectly, confirmed by the empirical evidence presented in the preceding sections. The argument explains the periods 1820 to 1879, 1880 to 1900, and 1945 to 1960. It does not fully explain those from 1900 to 1913, 1919 to 1939, or 1960 to the present.

1820–1879. The period from 1820 to 1879 was one of increasing openness in the structure of international trade. It was also one of rising hegemony. Great Britain was the instigator and supporter of the new structure. She began lowering her trade barriers in the 1820's, before any other state. The signing of the Cobden-Chevalier Tariff Treaty with France in 1860 initiated a series of bilateral tariff reductions. It is, however, important to note that the United States was hardly involved in these developments, and that America's ratio of trade to aggregate economic activity did not increase during the nineteenth century.

Britain put to use her internal flexibility and external power in securing a more open structure. At the domestic level, openness was favored by the rising industrialists. The opposition of the agrarian sector was mitigated by its capacity for adjustment: the rate of capital investment and technological innovation was high enough to prevent British agricultural incomes from falling until some thirty years after the abolition of the Corn Laws. Symbolically, the Manchester School led by Cobden and Bright provided the ideological justification for free trade. Its influence was felt throughout Europe where Britain stood as an example to at least some members of the elite.

Britain used her military strength to open many backward areas: British interventions were frequent in Latin America during the nineteenth century, and formal and informal colonial expansion opened the interior of Africa. Most importantly, Britain forced India into the international economic system.[17] British military power was also a factor in concluding the Cobden-Chevalier Treaty, for Louis Napoleon

[17] John Gallagher and Ronald Robinson, "The Imperialism of Free Trade," *Economic History Review*, 2nd Series, VI (August 1953), 1-15.

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was more concerned with cementing his relations with Britain than he was in the economic consequences of greater openness. Once this pact was signed, however, it became a catalyst for the many other treaties that followed.[18]

Britain also put economic instruments to good use in creating an open system. The abolition of the Corn Laws offered continental grain producers the incentive of continued access to the growing British market. Britain was at the heart of the nineteenth-century international monetary system which functioned exceptionally well, at least for the core of the more developed states and the areas closely associated with them. Exchange rates were stable, and countries did not have to impose trade barriers to rectify cyclical payments difficulties. Both confidence and liquidity were, to a critical degree, provided by Britain. The use of sterling balances as opposed to specie became increasingly widespread, alleviating the liquidity problems presented by the erratic production of gold and silver. Foreign private and central banks increasingly placed their cash reserves in London, and accounts were cleared through changing bank balances rather than gold flows. Great Britain's extremely sophisticated financial institutions, centered in the City of London, provided the short-term financing necessary to facilitate the international flow of goods. Her early and somewhat fortuitous adherence to the gold—as opposed to the silver or bimetallic—standard proved to be an important source of confidence as all countries adopted at least a *de facto* gold standard after 1870 because of the declining relative value of silver. In times of monetary emergency, the confidence placed in the pound because of the strength of the British economy allowed the Bank of England to be a lender of last resort.[19]

Hence, for the first three-quarters of the nineteenth century, British policy favored an open international trading structure, and British power helped to create it. But this was not a global regime. British resources were not sufficient to entice or compel the United States (a country whose economy was larger than Britain's by 1860 and whose technology was developing very rapidly) to abandon its protectionist commercial policy. As a state-power argument suggests, openness was only estab-

[18] Kindleberger (fn. 9), 41.

[19] Robert Triffin, *The Evolution of the International Monetary System* (Princeton: Princeton Studies in International Finance, No. 12, 1964), 2-20; R. G. Hawtrey, *The Gold Standard in Theory and Practice* (London: Longmans, Green 1947), 69-80; Leland Yeager, *International Monetary Relations* (New York: Harper and Row 1966), 251-61; Sidney E. Rolfe and James Burtle, *The Great Wheel: The World Monetary System, a Reinterpretation* (New York: Quadrangle 1973), 10-11; Condliffe (fn. 9), 343-80.

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lished within the geographical area where the rising economic hegemony was able to exercise its influence.

1880–1900. The last two decades of the nineteenth century were a period of modest closure which corresponds to a relative decline in British per capita income, size, and share of world trade. The event that precipitated higher tariff levels was the availability of inexpensive grain from the American Midwest, made possible by the construction of continental railways. National responses varied. Britain let her agricultural sector decline, a not unexpected development given her still dominant economic position. Denmark, a small and relatively well-developed state, also refrained from imposing tariffs and transformed its farming sector from agriculture to animal husbandry. Several other small states also followed open policies. Germany, France, Russia, and Italy imposed higher tariffs, however. Britain did not have the military or economic power to forestall these policies. Still, the institutional structure of the international monetary system, with the City of London at its center, did not crumble. The decline in trade proportions was modest despite higher tariffs.

1945–1960. The third period that is neatly explained by the argument that hegemony leads to an open trading structure is the decade and a-half after the Second World War, characterized by the ascendancy of the United States. During these years the structure of the international trading system became increasingly open. Tariffs were lowered; trade proportions were restored well above interwar levels. Asymmetrical regional trading patterns did begin to decline, although not until the late 1950's. America's bilateral rival, the Soviet Union, remained—as the theory would predict—encapsulated within its own regional sphere of influence.

Unlike Britain in the nineteenth century, the United States after World War II operated in a bipolar political structure. Free trade was preferred, but departures such as the Common Market and Japanese import restrictions were accepted to make sure that these areas remained within the general American sphere of influence.[20] Domestically the Reciprocal Trade Agreements Act, first passed in 1934, was extended several times after the war. Internationally the United States supported the framework for tariff reductions provided by the General Agreement on Tariffs and Trade. American policy makers used their economic leverage over Great Britain to force an end to the imperial

[20] Raymond Aron, *The Imperial Republic* (Englewood Cliffs, N.J.: Prentice-Hall 1973), 191; Gilpin (fn. 12), 409-12; Calleo and Rowland (fn. 6), chap. 3.

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preference system.[21] The monetary system established at Bretton Woods was basically an American creation. In practice, liquidity was provided by the American deficit; confidence by the size of the American economy. Behind the economic veil stood American military protection for other industrialized market economies—an overwhelming incentive for them to accept an open system, particularly one which was in fact relatively beneficial.

The argument about the relationship between hegemony and openness is not as satisfactory for the years 1900 to 1913, 1919 to 1939, and 1960 to the present.

1900–1913. During the years immediately preceding the First World War, the structure of international trade became more open in terms of trade proportions and regional patterns. Britain remained the largest international economic entity, but her relative position continued a decline that had begun two decades earlier. Still, Britain maintained her commitment to free trade and to the financial institutions of the City of London. A state-power argument would suggest some reconsideration of these policies.

Perhaps the simplest explanation for the increase in trade proportions was the burst of loans that flowed out of Europe in the years before the First World War, loans that financed the increasing sale of goods. Germany and France as well as Britain participated in this development. Despite the higher tariff levels imposed after 1879, institutional structures—particularly the monetary system—allowed these capital flows to generate increasing trade flows. Had Britain reconsidered her policies, this might not have been the case.

1919–1939. The United States emerged from the First World War as the world's most powerful economic state. Whether America was large enough to have put an open system in place is a moot question. As Tables II and III indicate, America's share of world trade and investment was only 26 and 55 per cent greater than that of any other state, while comparable figures for Great Britain during the last part of the nineteenth century are 100 per cent. What is apparent, though, is that American policy makers made little effort to open the structure of international trade. The call for an open door was a shibboleth, not a policy. It was really the British who attempted to continue a hegemonic role.

In the area of trade, the U.S. Fordney-McCumber Tariff of 1922

[21] Lloyd Gardner, *Economic Aspects of New Deal Diplomacy* (Madison: University of Wisconsin Press 1964), 389; Gilpin (fn. 12), 409.

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increased protection. That tendency was greatly reinforced by the Smoot-Hawley Tariff of 1930 which touched off a wave of protective legislation. Instead of leading the way to openness, the United States led the way to closure.

In the monetary area, the American government made little effort to alter a situation that was confused and often chaotic. During the first half of the 1920's, exchange rates fluctuated widely among major currencies as countries were forced, by the inflationary pressures of the war, to abandon the gold standard. Convertibility was restored in the mid-twenties at values incompatible with long-term equilibrium. The British pound was overvalued, and the French franc undervalued. Britain was forced off the gold standard in September 1931, accelerating a trend that had begun with Uruguay in April 1929. The United States went off gold in 1933. France's decision to end convertibility in 1936 completed the pattern. During the 1930's the monetary system collapsed.[22]

Constructing a stable monetary order would have been no easy task in the political environment of the 1920's and 1930's. The United States made no effort. It refused to recognize a connection between war debts and reparations, although much of the postwar flow of funds took the form of American loans to Germany, German reparations payments to France and Britain, and French and British war-debt payments to the United States. The great depression was in no small measure touched off by the contraction of American credit in the late 1920's. In the deflationary collapse that followed, the British were too weak to act as a lender of last resort, and the Americans actually undercut efforts to reconstruct the Western economy when, before the London Monetary Conference of 1933, President Roosevelt changed the basic assumptions of the meeting by taking the United States off gold. American concern was wholly with restoring the domestic economy.[23]

That is not to say that American behavior was entirely obstreperous; but cooperation was erratic and often private. The Federal Reserve Bank of New York did try, during the late 1920's, to maintain New York interest rates below those in London to protect the value of the pound.[24] Two Americans, Dawes and Young, lent their names to the renegotiations of German reparations payments, but most of the actual work was carried out by British experts.[25] At the official level, the first

[22] Triffin (fn. 19), 22-28; Rolfe and Burtle (fn. 19), 13-55; Yeager (fn. 19), 278-317; Kindleberger (fn. 11), 270-71.
[23] Kindleberger (fn. 11), 199-224; Yeager (fn. 19), 314; Condliffe (fn. 9), 499.
[24] Triffin (fn. 19), 22.
[25] Kindleberger (fn. 11), 296.

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manifestation of American leadership was President Hoover's call for a moratorium on war debts and reparations in June 1931; but in 1932 the United States refused to participate in the Lausanne Conference that in effect ended reparations.[26]

It was not until the mid-thirties that the United States asserted any real leadership. The Reciprocal Trade Agreements Act of 1934 led to bilateral treaties with twenty-seven countries before 1945. American concessions covered 64 per cent of dutiable items, and reduced rates by an average of 44 per cent. However, tariffs were so high to begin with that the actual impact of these agreements was limited.[27] There were also some modest steps toward tariff liberalization in Britain and France. In the monetary field, the United States, Britain, and France pledged to maintain exchange-rate stability in the Tripartite Declaration of September 1936. These actions were not adequate to create an open international economic structure. American policy during the interwar period, and particularly before the mid-thirties, fails to accord with the predictions made by a state-power explanation of the behavior of a rising hegemonic power.

1960–present. The final period not adequately dealt with by a state-power explanation is the last decade or so. In recent years, the relative size and level of development of the U.S. economy has fallen. This decline has not, however, been accompanied by a clear turn toward protectionism. The Trade Expansion Act of 1962 was extremely liberal and led to the very successful Kennedy Round of multilateral tariff cuts during the mid-sixties. The protectionist Burke-Hartke Bill did not pass. The 1974 Trade Act does include new protectionist aspects, particularly in its requirements for review of the removal of non-tariff barriers by Congress and for stiffer requirements for the imposition of countervailing duties, but it still maintains the mechanism of presidential discretion on tariff cuts that has been the keystone of postwar reductions. While the Voluntary Steel Agreement, the August 1971 economic policy, and restrictions on agricultural exports all show a tendency toward protectionism, there is as yet no evidence of a basic turn away from a commitment to openness.

In terms of behavior in the international trading system, the decade of the 1960's was clearly one of greater openness. Trade proportions increased, and traditional regional trade patterns became weaker. A state-power argument would predict a downturn or at least a faltering in these indicators as American power declined.

[26] Condliffe (fn. 9), 494-97.
[27] Evans (fn. 13), 7.

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In sum, although the general pattern of the structure of international trade conforms with the predictions of a state-power argument—two periods of openness separated by one of closure—corresponding to periods of rising British and American hegemony and an interregnum, the whole pattern is out of phase. British commitment to openness continued long after Britain's position had declined. American commitment to openness did not begin until well after the United States had become the world's leading economic power and has continued during a period of relative American decline. The state-power argument needs to be amended to take these delayed reactions into account.

Amending the Argument

The structure of the international trading system does not move in lockstep with changes in the distribution of potential power among states. Systems are initiated and ended, not as a state-power theory would predict, by close assessments of the interests of the state at every given moment, but by external events—usually cataclysmic ones. The closure that began in 1879 coincided with the Great Depression of the last part of the nineteenth century. The final dismantling of the nineteenth-century international economic system was not precipitated by a change in British trade or monetary policy, but by the First World War and the Depression. The potato famine of the 1840's prompted abolition of the Corn Laws; and the United States did not assume the mantle of world leadership until the world had been laid bare by six years of total war. Some catalytic external event seems necessary to move states to dramatic policy initiatives in line with state interests.

Once policies have been adopted, they are pursued until a new crisis demonstrates that they are no longer feasible. States become locked in by the impact of prior choices on their domestic political structures. The British decision to opt for openness in 1846 corresponded with state interests. It also strengthened the position of industrial and financial groups over time, because they had the opportunity to operate in an international system that furthered their objectives. That system eventually undermined the position of British farmers, a group that would have supported protectionism if it had survived. Once entrenched, Britain's export industries, and more importantly the City of London, resisted policies of closure.[28] In the interwar years, the British rentier class insisted on restoring the prewar parity of the pound—a decision

[28] Robert Gilpin, *American Power and the Multinationals: The Political Economy of Foreign Investment* (New York: Basic Books 1975), chap. 3; Kindleberger (fn. 11), 294.

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that placed enormous deflationary pressures on the domestic economy—because they wanted to protect the value of their investments.[29]

Institutions created during periods of rising ascendancy remained in operation when they were no longer appropriate. For instance, the organization of British banking in the nineteenth century separated domestic and foreign operations. The Court of Directors of the Bank of England was dominated by international banking houses. Their decisions about British monetary policy were geared toward the international economy.[30] Under a different institutional arrangement more attention might have been given after 1900 to the need to revitalize the domestic economy. The British state was unable to free itself from the domestic structures that its earlier policy decisions had created, and continued to follow policies appropriate for a rising hegemony long after Britain's star had begun to fall.

Similarly, earlier policies in the United States begat social structures and institutional arrangements that trammeled state policy. After protecting import-competing industries for a century, the United States was unable in the 1920's to opt for more open policies, even though state interests would have been furthered thereby. Institutionally, decisions about tariff reductions were taken primarily in congressional committees, giving virtually any group seeking protection easy access to the decision-making process. When there were conflicts among groups, they were resolved by raising the levels of protection for everyone. It was only after the cataclysm of the depression that the decision-making processes for trade policy were changed. The Presidency, far more insulated from the entreaties of particular societal groups than congressional committees, was then given more power.[31] Furthermore, the American commercial banking system was unable to assume the burden of regulating the international economy during the 1920's. American institutions were geared toward the domestic economy. Only after the Second World War, and in fact not until the late 1950's, did American banks fully develop the complex institutional structures commensurate with the dollar's role in the international monetary system.[32]

[29] Yeager (fn. 19), 279.

[30] Condliffe (fn. 9), 347.

[31] This draws from arguments made by Theodore Lowi, particularly his "Four Systems of Policy, Politics and Choice," *Public Administration Review*, XXXII (July-August 1972), 298-310. See also E. E. Schattschneider, *Politics, Pressures and the Tariff: A Study of Free Enterprise in Pressure Politics as Shown in the 1929–1930 Revision of the Tariff* (New York: Prentice-Hall 1935).

[32] See Janet Kelly, "American Banks in London," Ph.D. diss. (Johns Hopkins University 1975), for a study of the overseas expansion of American banks in the postwar period.

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Having taken the critical decisions that created an open system after 1945, the American Government is unlikely to change its policy until it confronts some external event that it cannot control, such as a worldwide deflation, drought in the great plains, or the malicious use of petrodollars. In America perhaps more than in any other country "new policies," as E. E. Schattschneider wrote in his brilliant study of the Smoot-Hawley Tariff in 1935, "create new politics,"[33] for in America the state is weak and the society strong.[34] State decisions taken because of state interests reinforce private societal groups that the state is unable to resist in later periods. Multinational corporations have grown and prospered since 1950. International economic policy making has passed from the Congress to the Executive. Groups favoring closure, such as organized labor, are unlikely to carry the day until some external event demonstrates that existing policies can no longer be implemented.

The structure of international trade changes in fits and starts; it does not flow smoothly with the redistribution of potential state power. Nevertheless, it is the power and the policies of states that create order where there would otherwise be chaos or at best a Lockian state of nature. The existence of various transnational, multinational, transgovernmental, and other nonstate actors that have riveted scholarly attention in recent years can only be understood within the context of a broader structure that ultimately rests upon the power and interests of states, shackled though they may be by the societal consequences of their own past decisions.

[33] Schattschneider (fn. 31), 288.

[34] See Peter J. Katzenstein, "Transnational Relations and Domestic Structures: Foreign Economic Policies of Advanced Industrial States," *International Organization*, xxx (Winter 1976), for a suggestive discussion of the impact of the relative power of state and society on foreign economic policy. See also Samuel P. Huntington, "Paradigms of American Politics: Beyond the One, the Two, and the Many," *Political Science Quarterly*, Vol. 89 (March 1974), 16-17, as well as Huntington, *Political Order in Changing Societies* (New Haven: Yale University Press 1968), chap. 2.

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Appendix

I.1 Per Capita Income

Year	*Indicator*	*Unit*	*United Kingdom*	*United States*	*France*	*Germany*	*Japan*
1. 1860	Real Product/P	IU's*	325 (1870)	357	133	152	n.a.
2. 1883	"	"	380	292 (1874–83)	156 (1880)	206	n.a.
3. 1899	GDP/P	1955 $	830	790	360	525	65
4. 1913	"	"	920	1,000	400	560	90
5. 1929	"	"	915	1,380	605	625	145
6. 1937	"	"	1,055	1,330	540	685	185
7. 1950	"	"	1,085	1,940	775	665	135
8. 1955	"	"	1,245	2,195	925	975	185
9. 1957	"	"	1,280	2,185	1,015	1,070	220
10. 1960	"	Current $	1,368	2,817	1,336	1,300	462
11. 1963	"	"	1,586	3,151	1,743	1,670	711
12. 1969	"	"	1,987	4,578	2,813	2,526	1,644
13. 1972	"	"	2,472	5,551	3,823	4,218	2,823

I.2 Aggregate Economic Size

Year	*Indicator*	*Unit*	*Great Britain*	*United States*	*France*	*Germany*	*Japan*
1. 1860	Real Income	millions IU's*	8.34 (1870)	11.25	4.84	5.70	n.a.
2. 1874–83	"	"	11.55 (1883)	14.23	5.88 (1880)	10.54 (1883)	n.a.
3. 1899	GDP	billions 1955 $	34.0	59.0	14.0	29.3	2.80
4. 1913	"	"	42.0	97.0	16.0	37.5	4.80
5. 1929	"	"	42.0	168.0	25.0	40.5	9.10
6. 1937	"	"	50.0	171.0	22.4	46.5	12.99
7. 1950	"	"	54.7	294.0	32.4	31.8	11.1
8. 1955	"	"	63.5	362.5	40.0	49.0	16.5
9. 1957	"	"	66.0	376.0	44.8	55.0	19.8
10. 1960	"	billions current $	71.2	509.0	61.0	72.0	43.1
11. 1963	"	"	84.6	596.0	83.3	96.2	68.1
12. 1969	"	"	109.7	928.0	141.5	153.7	168.0
13. 1972	"	"	153.0	1,159.0	197.7	260.2	299.2

*IU's (International Units): Quantity of goods exchangeable on the average for $1 in the U.S. during 1925-34.
Dates are in parentheses when different from those in first column.

Sources for I.1 and I.2:

Lines 1-2: Colin Clark, *The Conditions of Economic Progress* (London: Macmillan 1957), chap. III, Tables 23, 40, 22, 21, 28.
Lines 3-9: Alfred Maizels, *Industrial Growth and World Trade* (Cambridge: Cambridge University Press 1963), 533, 531.
Lines 10-13: *United Nations Statistical Yearbook 1974*, 596-98.

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I.3 Aggregate Economic Size and Per Capita Income

Aggregate Economic Size

	Year	Unit	U.S.S.R.	United States	Great Britain
1.	1913	billions IU's*	22.3	48.0 (1914)	20.39
2.	1928	"	25.5	82.3	22.50
3.	1932	"	22.3	61.5	21.36
4.	1937	"	33.95	90.7	27.56
5.	1938	"	34.9	86.1	26.70
6.	1940	"	41.0	103.0	30.48
7.	1951	"	54.1	170.7	30.16
8.	1958	billions $	144.8	406.6	n.a.

Per Capita Income

	Year	Unit	U.S.S.R.	United States	Great Britain
9.	1913	IU's*	161	508 (1914)	530
10.	1928	"	168	686	535
11.	1932	"	141	499	513
12.	1937	"	206	707	637
13.	1938	"	207	666	624
14.	1940	"	236	789	n.a.
15.	1951	"	267	1,122	597
16.	1958	U.S. $	700	2,324	n.a.

* IU's (International Units): Quantity of goods exchangeable on the average for $1 in the U.S. during 1925–34.

Sources: Lines 1-7, 9-15: Colin Clark, *The Conditions of Economic Progress* (London: Macmillan, 1957), chap. IV, Table 23; chap. III, Table 40.

Lines 8, 16: Simon Kuznets, *Postwar Economic Growth* (Cambridge: Harvard University Press 1964), 29.

I.4 Percentage of Share of World Trade

Years	United Kingdom*	France	Germany	Russia	United States**	Japan
1720, 1750, 1780	14.1	9.7	10.2	9.4	1.0	n.a.
1820, 1830	21.6	9.9	11.5	6.7	6.0	n.a.
1830, 1840	20.8	10.8	10.2	6.4	6.3	n.a.
1840, 1850	20.1	11.4	8.8	5.3	7.3	n.a.
1850, 1860	22.7	11.3	8.6	4.0	8.3	n.a.
1860, 1870	25.1	10.8	9.2	4.0	8.3	n.a.
1870, 1880	24.0	10.8	9.7	4.5	8.8	n.a.
1880, 1890	22.4	10.2	10.3	3.9	9.8	n.a.
1913	15.5	7.3	12.1	12.8	12.9	n.a.
1928	13.7	6.1	9.3	8.3	17.3	n.a.
1937	14.1	4.8	8.3	7.4	16.0	5.1
1950	11.6	5.3	4.1	n.a.	16.7	1.6
1958	9.3	5.0	7.5	3.9	20.0	2.7
1969	7.0	6.0	10.0	2.0	15.0	6.0
1973	9.0	9.0	16.0	2.0	19.0	9.0

* 1913–1937 United Kingdom and Ireland.

** 1913–1937 North America.

Sources: 1720–1937: Simon Kuznets, *Modern Economic Growth* (New Haven: Yale University Press 1966), 306-08.

1950–1973: International Monetary Fund, *Direction of Trade*, various years; and United Nations, *Yearbook of International Trade Statistics*, various years.

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I.5 Foreign Investment

Gross Foreign Investment Outstanding
(billions of dollars)

Year	United Kingdom	France	Germany	United States
c. 1874	4.6	n.a.	n.a.	n.a.
1880	5.8	3.0	1.2	n.a.
1890	9.5	4.0	2.8	n.a.
1900	11.7	5.6	3.4	n.a.
1914	18.3	8.7	5.6	3.5

N.B. Throughout this period the U.S. was a *net* capital debtor, except for the years 1900–1905.

Share of Major Creditors in
Flow of Foreign Capital Investment
(percentages)

Years	United Kingdom	France	Germany	United States
1921–29	27.7	21.8	net debtor	43.0
1930–38	14.1	1.3	" "	78.1
1951–55	10.5	2.5	2.2	78.4
1956–61	10.2	6.2	9.2	67.4

Sources: Simon Kuznets, *Modern Economic Growth* (New Haven: Yale University Press 1966), 322-23; for 1914, Mira Wilkins, *The Emergence of Multinational Enterprise* (Cambridge: Harvard University Press 1970), 201.

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FAILURES IN NATIONAL INTELLIGENCE ESTIMATES: The Case of the Yom Kippur War

By AVI SHLAIM

I. Strategic Surprise

A FORMER Israeli Chief of Staff, Lieutenant-General Chaim Bar-Lev, divides strategic surprise or surprise at war into three types: surprise in method, surprise in place, and surprise in time.[1] According to Bar-Lev, in October 1973 the only type of surprise achieved by the Arabs concerned the timing of the attack. But it is arguable that Israel was taken by surprise in all three spheres.[2] As far as the method of warfare is concerned, the Israeli armed forces were not adequately prepared for the dense deployment of antiaircraft and antitank missiles by the Egyptians and the Syrians, nor were they fully equipped for an amphibious crossing. As far as the place of the attack is concerned, Bar-Lev assumed that there could be no doubt that if the enemy launched an attack, it would be on the defensive lines built by Israel. But it should be recalled that Israel's official theory of "secure borders" precluded the possibility of an attack. The theory assumed that the June 1967 borders were so secure that an enemy attack was bound to fail, and that this would deter the enemy from launching a full-scale war in the first place. Seen in this perspective, Israel was surprised not only by the timing, but also by the method and place of the Yom Kippur attack. Military history offers few parallels for strategic surprise as complete as that achieved by Egypt and Syria on October 6, 1973.

"In security matters," wrote Israel's Defense Minister Shimon Peres, "the problem of advance warning is a problem of life and death," quoting the example of America's investment of millions of dollars to gain a few additional minutes of warning.[3] Israel's own defense doctrine was based on maintaining a small standing force which could be reinforced in a crisis by highly trained reserves through the operation of a swift and efficient system of mobilization. Advance warning was a

[1] *Ma'ariv*, 1 August 1975.

[2] This was argued by Major-General (Res.) Matityahu Peled in *Ma'ariv*, 8 August 1975.

[3] Peres, *Hashlav Haba* [The Next Phase] (Tel-Aviv: HaSefer Publishers 1965), 114; this and all following translations from Hebrew by the author.

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crucial element in this conception; to ensure it, Israel developed an intelligence service of near-legendary competence. The strategic surprise attained by the combined Arab attack of October 6, 1973, provides a dramatic illustration of the momentous consequences which a failure in national intelligence estimates can have. It enabled the Arabs to dictate the opening moves in the war and to secure their initial successes. More significantly, it radically changed the whole political and psychological balance of power in the Middle East to Israel's disadvantage.

When a nation suffers such setbacks as a result of being caught unprepared, a search for scapegoats frequently takes place; the blame is often laid at the door of the intelligence community. After the defeat of June 1967, for example, President Nasser dismissed the Egyptian intelligence chief although all the evidence indicates that a first strike by Israel was an integral part of Nasser's strategy. Following the Yom Kippur War, the Israeli Director of Military Intelligence was removed from his post. (He was not dismissed from the army.) But the fact that failures in national intelligence estimates have taken place so frequently and ubiquitously, and that they have not been confined to services of low professional standing, would suggest that it is misleading to attribute responsibility for mistakes of this kind to the incompetence of the officers most directly concerned, and that there are deeper and more pervasive factors which need to be taken into account. In the present article I seek to use the Yom Kippur episode as a basis for an exploration of these basic factors which are conducive to incorrect evaluation. The argument is based on the conviction that intelligence failures display similarities that make it legitimate to generalize by using a case study drawn out of a specific context to illuminate questions of broader and continuing significance. The task must be approached with the greatest caution, however, mindful of de Tocqueville's warning that misapplied lessons from history may be more dangerous than ignorance of the past.

What the Israeli national intelligence failure has in common with a large number of other historical examples is that it was not due to any dearth of information but to an incorrect evaluation of the available information.[4] This point cannot be over-emphasized: had the failure

[4] The Chinese intervention in the Korean War, for example, came as a surprise to the Truman Administration although the Chinese had explicitly stated that they would intervene if the American forces crossed the 38th parallel. From the study of the documents, H. A. de Weerd has concluded that the evidence available to the policy makers was good enough for reasonably vigilant statesmen to take seriously the threat of full-

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been the result of inadequate information about the war preparations of the other side, the simple conclusion to be drawn from the episode would have been the need to expand and improve Israel's fact-gathering services. But the interest of the episode and the lessons to be learned from it lie precisely in the fact that enemy intentions were misperceived until the last moment, although there was not shortage of information about enemy moves and preparations.

That this was so is by now abundantly clear. Chaim Bar-Lev, now the Minister of Commerce and Industry, who was dispatched to assist the high command upon the outbreak of war because of his previous military experience, emphasized the point in a newspaper article: "It is worth pointing out that no lack of reliable information caused this situation. *Zahal* [the Israel Defense Forces] had all the information about the enemy's power, his deployment and the advanced weapons in his possession. The mistake lay in the evaluation of the intelligence data and not in the absence of accurate and reliable information."[5]

In the article mentioned earlier, Bar-Lev noted that, on the eve of the German invasion in 1941, Russia had details on a scale never enjoyed by another country before; in his opinion, that record of accurate details in the possession of a country which was subjected to a surprise attack has passed from the Soviet Union to Israel.[6]

In discussing the information available on an approaching crisis, it is useful to distinguish between what Roberta Wohlstetter has called "signals" and "noise." "By the 'signal' of an action is meant a sign, a clue, a piece of evidence that points to the action or to an adversary's intention to undertake it, and by 'noise' is meant the background of irrelevant and inconsistent signals, signs pointing in the wrong direction, that tend always to obscure the signs pointing the right way."[7] Signals rarely come in a pure or isolated form. They are embedded in a complex network of competing and contradictory signals, some inadvertently created by the receiver, some by chance, and some deliberately projected by the adversary in an effort to conceal his true intentions. Pearl Harbor, as Wohlstetter points out, "shows how hard it is to hear a signal against the prevailing noise, in particular when you are listening for the wrong signal, and even when you have a wealth of in-

scale Chinese intervention: "It was not the absence of intelligence which led us into trouble but our unwillingness to draw unpleasant conclusions from it." "Strategic Surprise in the Korean War," *Orbis*, VI (Fall 1962).

[5] *Ma'ariv*, 9 November 1973.

[6] *Ma'ariv*, 1 August 1975.

[7] Wohlstetter, "Cuba and Pearl Harbor: Hindsight and Foresight," *Foreign Affairs*, XLIII (July 1965).

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formation. (Or perhaps especially then. There are clearly cases when riches can be embarrassing)."[8] To understand the phenomenon of surprise, it is essential to examine not only the signals but also the noise that obscures them and can prevent them from being understood correctly.

Here a word of warning must be interjected. Signals that announce an impending disaster appear much more stark and clear after the disaster has taken place than at the time they are originally received. After the event it is much easier to sort out the relevant from the irrelevant signals. A retrospective examination can be compared to the construction of a familiar jigsaw puzzle: one can pick out the appropriate pieces and fit them into a coherent pattern which is seen to have heralded the imminent attack clearly and unmistakenly. Even the accounts of the participants themselves display a common tendency to allow the memories of the doubts, the confusions, and the ambiguities to fade away, leaving the signals perceived to stand as an inexorable chain of evidence pointing firmly in the right direction. But the commentator must take care not to allow the benefit of hindsight to distort his vision and not to be too unsympathetic with the people who were proved wrong: on closer examination, it is frequently difficult to point to differences between those who were right and those who were wrong in their interpretation of the data at hand.

II. The Agranat Report

Although the full story of the Israeli intelligence failure of October 1973 is not yet known and may never be known, the essential components of this failure are fully documented in the Interim Report of the Agranat Commission of Inquiry which was published in April 1974.[9] This five-man Commission, which was chaired by the President of the Supreme Court, Dr. S. Agranat, and included two former Chiefs of Staff, was appointed by the Government to examine the responsibility of the military and civilian authorities for the failure to anticipate the Yom Kippur War and for the lapses in the initial conduct of the war. Its Report is of the highest interest not only for practitioners of the intelligence craft, but also for historians and social scientists whose

[8] *Ibid.*

[9] *Interim Report of the Agranat Commission of Inquiry*, Jerusalem, 1 April 1974. An additional interim report was published on 10 July 1974, and the final report was submitted on 30 January 1975. These, however, have not been made public and all the references in the present article are to the first Interim Report. The subsequent reports deal, *inter alia*, with the performance of the intelligence services after the outbreak of hostilities, a subject that falls outside the scope of this article.

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access to material on which to base their research is severely limited by the necessity for secrecy in the work of the intelligence services. Since the Report provides the bulk of the material for this portrait of the Israeli intelligence failure, and since it is not available in English, a detailed account of its relevant parts follows.

The opening of the war by Egypt and Syria on Saturday, October 6, 1973, at 14:00 hours surprised the Israel Defense Forces (IDF): until the early morning, the high command and the political leaders did not realize that a general war was about to break out; when they finally did, the high command assumed, mistakenly, that this would happen at 18:00.

The responsibility for these mistakes is attributed by the Commission primarily to the Director of Military Intelligence and his principal assistant who heads the research department, the only body in the country which deals with intelligence evaluation. These officers failed in that the warning they gave to the IDF was totally inadequate. At 4:30 on the morning of October 6, the Director of Military Intelligence announced, on the basis of new evidence, that the enemy would attack on both fronts at 18:00. This short warning did not permit an orderly mobilization of the reserves in accordance with the established timetables and procedures. The additional mistake of four hours concerning the actual timing of the attack further impaired the preparedness of the standing forces at the front and the deployment of the reserves.

The Commission indicates three reasons for the error of those charged with evaluation. First, their stubborn adherence to "the conception," resting on two assumptions: (a) Egypt would not go to war until she was able to stage deep air strikes into Israel, particularly against her major military airfields, in order to neutralize Israel's Air Force; (b) Syria would not launch a full-scale war against Israel unless Egypt was in the struggle too. This conception may have been correct at the time it was formulated, but its first and crucial part was not reassessed in the light of political and military changes in the area.

Second, the Director of Military Intelligence had guaranteed that his department would give sufficient advance warning of such an all-out attack to permit the orderly call-up of the reserves. This promise became the firm foundation of the IDF's defense plans. The Commission tersely observes that it found no grounds for such a definitive guarantee.

Third, during the days that preceded the war, the research department possessed considerable information about threatening enemy

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moves which were supplied by the intelligence and other agencies. But the Director of Military Intelligence and his assistants did not correctly evaluate the warning this information contained because of their doctrinaire adherence to "the conception" and their willingness to explain away the enemy's deployment at the front lines—although it was unprecedented in its scale and direction—as evidence of a defensive move in Syria and a multidivision exercise in Egypt.

The Military Intelligence's belief in the correctness of its evaluation did not begin to falter until the morning of October 5, when a particularly clear piece of evidence was difficult to reconcile with the assumption of a harmless exercise and defensive maneuver. Even then, the right conclusion was not drawn and the chances of war were given in the military jargon as "low probability" and even as "lower than low." It was on the basis of this confidence that Prime Minister Golda Meir and Defense Minister Moshe Dayan concluded that full mobilization was not yet necessary, and the Chief of Staff merely placed the standing army on full alert. Only at the dawn of Yom Kippur, after receiving an additional piece of clear-cut information, did the Director conclude that war would break out that very day.

The Agranat Commission's separate recommendations for dealing with the intelligence personnel shed further light on the causes of what has come to be known in Israel as "the breakdown." Major-General Eliyahu Zeira, the Director of Military Intelligence, had only been at his post for one year before the war and had found established patterns of work. But he adopted "the conception" whose rigidity destroyed the openness required in confronting inflowing information.

With Lt. Col. Yonah Bendman, the head of the Egypt branch in the research department, the belief in "the conception" reached its peak. This is evident from a report he issued on October 5, containing a long list of offensive Egyptian preparations. His conclusion was that, although the deployment showed apparent signs of offensive intent, no change had taken place in the Egyptian view of the balance of power between them and the IDF, and that consequently the likelihood that they intended to renew the war was low.

Military Intelligence actually suppressed views contradicting its senior officers' unconcern. On October 1, a young intelligence officer, Lieutenant Benjamin Siman-Tov, presented a startling document entitled "Movement in the Egyptian Army—the possibility of resumption of hostilities." This document summarized and analyzed the information concerning the build-up across the Suez Canal. On October 3, Siman-Tov presented a second and more detailed report. In these two reports

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he pointed to a number of important facts that could not be squared with the view of the Egyptian moves as an exercise. On the basis of these facts the Lieutenant gave his evaluation that the exercise camouflaged the final phases of preparation for all-out war.

Siman-Tov's reports got no further than the senior intelligence officer in the Southern Command, Lt. Col. David Geddaliah. Geddaliah's reports to GHQ in Tel-Aviv contained no trace of Siman-Tov's dissenting conclusions. He had "erased" the penetrating questions which were apt to arouse doubts about the nonoffensive intentions of the Egyptians because "they stood in contradiction to Headquarters' evaluation that an exercise was taking place in Egypt." His thinking, the Commission concludes, was trapped in a vicious circle. He did not fulfil his duty as an intelligence officer to treat every item of information and every evaluation without prejudice. His conduct was particularly reprehensible because the evidence of a picture taken by a reconnaissance flight on October 4, which showed an alarming reinforcement of the Egyptian forces, should have assumed a special significance in the light of Siman-Tov's evaluation.

The members of the Commission of Inquiry explicitly state that, in criticizing the intelligence community, they were mindful not to fall into the trap of "wisdom after the event" and endeavored to see matters in the perspective of the situation as it was at the time the evaluations were made and the decisions were taken. But the Report shows that to some extent they succumbed to the all too human tendency of distinguishing much more clearly between signals and noise with hindsight than would have been possible at the time; they dwell on the signals which after the event are clearly seen to have heralded the attack, paying insufficient regard to the plethora of conflicting signs which pointed in the wrong direction. In addition to the obstacles to clear perception which the intelligence officers created themselves and which are so skilfully analyzed in the Report, there were all kinds of noises which either occurred by chance or were deliberately created by the enemy and which, in the perspective of the time, were no less relevant. An example of the "objective" barrier was provided by Lieutenant-General David Elazar, the Israeli Chief of Staff at the time of the war, when he explained that "the objective data which we had as a warning this time were different from those in the past. In addition to threats by Arab rulers, the armies of Egypt and Syria were all deployed along the ceasefire line, not as in the 1967 war when the entry of the Egyptian Army into Sinai signalled the need for us to

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mobilize our reserves."[10] Nor were the signs of escalation a definitive signal: three previous mobilizations had taken place since 1971 without the subsequent launching of a strike. In the absence of clear "objective" indicators, Israeli intelligence experts had to rely on their reading of the enemy leaders' intentions as a source of advance warning to the IDF.

Arab deception strategy was a further and significant reason behind the Israeli intelligence failure. Unlike the Wohlstetter model, which sees strategic surprise primarily as the result of ambiguous information, the model developed by Barton Whaley singles out deception as the key to surprise. His study of the German invasion of Russia in 1941 contends that Stalin had been surprised by Hitler's action not because the warnings were ambiguous, but precisely because the Germans had managed to reduce their ambiguity. In other words, surprise had been inflicted by the deliberately false "signals" and not by the ambiguous "signals," much less by the merely distracting "noise."[11] Whaley's study of this and other cases leads him to conclude that "deception and surprise are so closely linked that their intensities are directly related. That is, the greater the deception effort, the greater the degree of surprise gained."[12] This model, which should be seen as complementing rather than competing with Wohlstetter's, helps to explain the surprise achieved in the Yom Kippur War.

The Arabs went far beyond mere secrecy and resorted to active deception designed to create a misleading impression concerning their capabilities, plans, and intentions. Their efforts ranged from welcoming Dr. Kissinger's peace initiatives in September 1973 to planting news items in a Lebanese newspaper about the neglect and deterioration of the Soviet equipment in the Suez Canal zone, and from staging the kidnapping of Soviet Jews by Palestinian terrorists in Austria as a decoy plan to positioning Syrian tanks "hull down," dug in to resist retaliative assault rather than to attack.[13] These efforts were part of an imaginative, intensive, and well-orchestrated strategy of deception

[10] SWB (Summary of World Broadcasts) Second Series ME/4437, 30 October 1973, published by the Monitoring Service of the BBC.

[11] Barton Whaley, *Codeword Barbarossa* (Cambridge: MIT Press 1973).

[12] Barton Whaley, "The Causes of Surprise in War," Paper delivered at the Conference on Strategic Issues, The Leonard Davis Institute of International Relations, The Hebrew University of Jerusalem, 7-9 April 1975.

[13] For details of the Arab deception strategy, see Mohamed Heikal, *The Road to Ramadan* (London: Collins 1975), chap. I; The Insight Team of the Sunday Times, *The Yom Kippur War* (London: André Deutsch 1975), 80-81, 101-11; John Bullock, *The Making of a War* (London: Longman 1974), 206-9; and Zeev Schiff, *October Earthquake* (Tel Aviv: University Publishing Projects 1974), 23-26.

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which brought rich rewards. Particularly effective was the exploitation of Israeli weaknesses by deliberately acting in such a way as to confirm the Israeli leaders' known belief that the Arabs were not ready and not willing to go to war.

It must also be remembered that there is such a thing as the cry-wolf syndrome. Repeated warnings which are not followed up by action have the effect of eroding the altertness of the threatened party. President Sadat had named 1971 as "the year of decision," and he made himself a laughing stock by repeating his threats noisily at a time when he was incapable of carrying them out. As Coral Bell put it, "the unfulfilled threats of the two previous years had left a pervasive impression of military irresolution which operated as a conscious or unconscious *ruse de guerre* for the Egyptians, concealing their intentions."[14] False alarms and repeated alerts that turn out to have been unnecessary are also connected with this syndrome, for their effect in the long run is to obscure the signals that herald the advent of a real crisis. This effect is what Prime Minister Meir had in mind when she said plaintively: "No one in this country realises how many times during the past year we received information from the same source that war would break out on this or that day, without war breaking out. I will not say this was good enough. I do say it was fatal."[15]

The neglect of details such as these and many others led the Commission of Inquiry to present a somewhat unbalanced picture. As one critic has pointed out, its conclusions crystallized in the light of history and the chain of events as they occurred, and not in accordance with the internal logic of the various facts and the evaluations seen in the light of the original circumstances in which they were collected and formed.[16] Notwithstanding this deficiency, there is much in the Interim Report that is useful in underpinning an investigation of the causes of failure in national intelligence estimates. The causes can be divided into two categories, the psychological and the institutional, although to some extent they overlap.

III. The Psychological Roots of Surprise

The possibilities of surprise are inherent in the limitations of human perception. Surprise is essentially a psychological phenomenon that has

[14] Bell, "The October Middle East War: a Case Study in Crisis Management During Detente," *International Affairs*, Vol. 50 (October 1974), 534.

[15] *Jerusalem Post Weekly*, 11 December 1973.

[16] Abraham Ben-Zvi, "Military Intelligence and its Evaluations," *Ma'ariv*, 18 April 1974.

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its roots in human nature.[17] Since the facts do not speak for themselves but need to be interpreted, it is inevitable that the individual human propensities of an intelligence officer will enter into the process of evaluation. Images, beliefs, ideological bias, wishful thinking, natural optimism or pessimism, confidence or the lack of it, all play a part in determining which facts the observer will notice and which he will ignore, the weight he will attach to the selected facts, the pattern into which he will fit them, and the conclusions which he will draw from them. It is arguable, therefore, that the discipline of psychology is as relevant to the study of surprise as that of military history. Both its commonplaces and some of its more tentative ideas should help us to understand the roots of surprise.

Images, which may be defined as the organized representation of an object in an individual's cognitive system, play an all-important part in the process of making intelligence evaluations. Actors do not respond to the "objective" facts—whatever that may mean—but to their individual perceptions of reality. Any assessment they make of a situation is bound to be affected in varying degrees by a series of personal images they hold, notably the image of the antagonistic out-group they are combatting. In their deliberations they will tend to convey to each other oversimplified images embodied in long-standing ideological stereotypes instead of seeking to apply to the issue at hand varied concepts derived from an open-minded inquiry. Images serve as screens for the selective reception of new messages, and they often control the perception and interpretation of those messages which are not completely ignored, rejected or suppressed.[18] The tendency of observers to interpret incoming information in a way that confirms their images sometimes extends to the actual suppression of messages that are difficult to reconcile with these images.

The same is true of preconceived ideas and theories. Evidence from both history and psychology overwhelmingly supports the view that people tend to fit incoming information into their existing views and theories. That intelligence analysts should hold theories is in a way inevitable, because without them the mass of information with which they have to cope would become unmanageable. But they can easily become the prisoners of their theories, with those theories acting as blinkers to exclude any evidence that does not conform to their ex-

[17] Y. Harkabi, *Nuclear War and Nuclear Peace* (Jerusalem: Israel Program for Scientific Translations 1966), 51.

[18] Karl W. Deutsch and Richard L. Merritt, "Effects of Events on National and International Images," in Herbert C. Kelman, ed. *International Behavior* (New York: Holt, Rinehart & Winston 1966), 134.

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pectations. Moreover, in conditions of uncertainty they would tend to cling to their theories all the more tenaciously; the greater the ambiguity of the information, the greater the impact of the established theory.[19] As Robert Jervis has pointed out, this phenomenon has several implications. First, since actors tend to perceive what they expect to perceive, a signal in accord with the receiver's expectations can be quite subtle and still have the desired impact. Indeed, such signals may be perceived even if they are not sent. The other side of this coin is that signals that go against the established view will have to be much clearer to be noticed, let alone understood.[20] Another way of putting it would be to say that the recognition threshold for signals which confirm the theory of the receiver is lower than that for signals which contradict it; and the higher the degree of confidence with which the receiver holds the theory, the higher this recognition threshold will be for signals which contradict it.[21]

The Agranat Report provides a convincing analysis of the barriers to clear perception which stem from too rigid an adherence to a theory. Although the evidence about the enemy's intentions was ambiguous, General Zeira did not seek additional evidence from any of the other sources at his disposal, but accepted as valid the interpretation that did not conflict with "the conception." Lt. Col. Bendman's confidence in "the conception" was such that he perceived but did not grasp the import of the signals that were in conflict with it. Lt. Col. Geddaliah went to the length of silencing an evaluation that called the validity of the Intelligence Branch's theories into question, instead of re-examining these theories in the light of the dissenting evaluation and the facts on which it was based.

It needs to be pointed out, however, that theories held by intelligence services, particularly theories that command such an impressive consensus as "the conception," do not spring out of thin air. They are the product of the collective wisdom, knowledge, and experience of the organization. Usually such a theory has stood the test of time and proved its usefulness. "The conception" is a case in point: it appeared to have been vindicated only a few months before it was so spectacularly demolished. In May 1973, the Israeli Intelligence assessed correctly the

[19] Floyd Allport, *Theories of Perception and the Concept of Structure* (New York: Wiley 1955), 382.

[20] Jervis, *The Logic of Images in International Relations* (Princeton: Princeton University Press 1970), 132.

[21] Ole Holsti, "Cognitive Dynamics and Images of the Enemy," in David Finlay, Ole Holsti, and Richard Fagen, *Enemies in Politics* (Chicago: Rand McNally 1967), 29-33, 70.

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limited repercussions of the Lebanese crisis which threatened to spread, Balkan-fashion—despite Syria's conspicuously threatening maneuvers, Egypt's war-like preparations, and President Sadat's speeches announcing the "phase of total confrontation." This success enhanced confidence in the established theories and predisposed the intelligence community to make the same evaluation in September-October. At the same time the Chief of Staff, who had not accepted the Intelligence Branch's estimate of the low probability of war in May and ordered a partial mobilization which was severely criticized at the time as costly and unnecessary, had become less willing to enter into another contest with the intelligence professionals.

Since the adoption of theories as a basic working tool has both its uses and its pitfalls, a question arises as to the proper role of theory and the dilemma of how "open" to be to new information. It would probably be true to say (although it cannot be quantified), that intelligence officers are apt to err by being too wedded to a theory and too closed to new information, as opposed to being too willing to alter their theories. This assumption, if correct, would suggest the need to employ theories more tentatively and experimentally than the senior Israeli officers did, and to make a conscious effort to re-assess them constantly and critically in the light of fresh, incongruent data.

Much of the improper use of evidence made in connection with the employment of theories can be traced to the hypothesis advanced by Jervis, that "actors tend to overlook the fact that evidence consistent with their theories may also be consistent with other views."[22] It is indeed common to find people claiming as proof of their theories data that could also support alternative views. To avoid falling into this trap, it is advisable to work with more than one hypothesis so that the evidence that comes to hand will not confirm the preferred hypothesis simply because it is already believed to be correct.

Just as actors tend to perceive what they expect, so—in conditions of great uncertainty—they will tend to predict that events they want to happen actually will happen, i.e., overrate the probability of a desirable event.[23] That is the well-known phenomenon usually referred to as wishful thinking. The greater the actor's preference for a particular outcome, the greater the perceptual distortion. Ambiguous signals will be misinterpreted even when an actor realizes that they are signals rather than noise. The vast literature on the impact of affect on perception

[22] Robert Jervis, "Hypotheses on Misperception," *World Politics*, XX (April 1968), 478.
[23] J. David Singer, "Inter-State Influence: A Formal Model," *American Political Science Review*, LVII (June 1963), 426.

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cannot be treated here, but a distinction should be made between wishful thinking and probabilistic thinking, with which it is often confused. Wishful thinking permits the observer's individual wishes and aspirations to suppress uncomfortable evidence. Probabilistic thinking proceeds to predict an adversary's behavior in conditions of uncertainty on the basis of patterns of expectations formed by past experience. The Agranat Report contains evidence that would suggest that the line of demarcation between the two is so fine that a slide from probabilistic to wishful thinking can take place without the actor actually being aware of it.

The fact that intelligence evaluation is not the product of individual effort but of a group has important consequences; group dynamics necessarily come into play. The maintenance of group solidarity is usually a central value, with the effect of predisposing members of the group to focus on one interpretation or option, to stress consensus, and to underplay their personal doubts and differences. Group dynamics act not only as a potent instrument for conformity but also lead to overlooking dangers and taking a more optimistic view of a situation than individual members would take in isolation from one another.[24] The individual who wishes to gain the confidence of his colleagues finds it expedient to place himself within the secure framework of shared norms and assumptions even if in fact his position differs fundamentally and not marginally from the collective wisdom. And there is substantial evidence that stress reduces tolerance by members of a group for those who deviate from its norms.[25] Lt. Col. Geddaliah's erasure of the discordant notes struck by Lt. Siman-Tov is an extreme example of such intolerance.

Pressures for conformity operate not only within a professional group but also between professional groups. This at any rate is suggested by the interactions between Israeli and American intelligence agencies in the period preceding the October War. As early as May 1973, the CIA and the State Department's own Intelligence and Research Bureau gave the American Government a generalized warning that war in the Middle East was coming "soon."[26] This estimate was supported by

[24] For a detailed and interesting discussion of the nature and impact of group dynamics on foreign policy decisions and fiascoes, see Irving L. Janis, *Victims of Groupthink* (Boston: Houghton Mifflin 1972).

[25] Leonard Weller, "The Effects of Anxiety on Cohesiveness and Rejection," *Human Relations*, XVI (1963); Lewis Coser, *The Functions of Social Conflict* (New York: Free Press 1956), 103-4.

[26] Insight Team of the Sunday Times (fn. 13), 71. See chap. 6 for further details on contacts between American and Israeli intelligence prior to the outbreak of the war.

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information which came in during September from America's excellent monitoring system with its highly secret base in southern Iran and its SAMOS satellites. The Israeli Intelligence was alerted, but dismissed the forecasts of war; in turn, the American intelligence community's evaluation of the extensive indicators that had been picked up was heavily influenced by the opinion of its Israeli opposite number. Dr. Kissinger has revealed that "We asked our intelligence, as well as the Israeli intelligence, on three separate occasions during the week prior to the outbreak of hostilities to give us their assessment of what might happen. There was the unanimous view that hostilities were unlikely to the point of there being no chance of it happening." Questioned about why U.S. intelligence miscalculated the intentions of the Arabs, he added: "Surprise would never be possible if there were no misjudgments of intentions. And obviously the people most concerned, with the reputation of the best intelligence service in the area, were also surprised, and they have the principal problem of answering the question which you put to me."[27] Given the early misgivings of the American intelligence community and the quantity and accuracy of information it possessed which pointed toward war, the acceptance of its Israeli counterpart's estimate of Arab intentions may be regarded as a remote form of group dynamics making for conformity.

In addition to enumerating specific barriers to clear perception which have their roots in human nature, an analysis of the causes of a national failure to anticipate an attack must examine the impact on the intelligence community of the society it serves. The political attitudes of intelligence professionals, like those of all other groups, are affected by the prevailing social and political climate. In post-1967 Israel, complacency was the hallmark of this climate. The ruling elite in its actions and utterances propagated the view that the status quo had overwhelming advantages for Israel and that it could be perpetuated indefinitely. After the crushing defeat which the Arabs had suffered in the Six-Day War, it was thought that they would not risk an attempt to change the status quo by force; the superpowers were divided and the international community could not impose a settlement. The Israeli Government could, therefore, sit tight on the secure borders won in the war and wait until the Arabs were prepared to make peace on its terms. Following the ending of the war of attrition in August 1970, the beginning of the cease-fire, the death of Nasser, the civil war in Jordan, and ultimately the expulsion of the Soviet advisers from Egypt, a feeling developed in the Israeli defense establishment that a considerable

[27] *Jerusalem Post Weekly*, 16 October 1973.

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period of time would elapse before the Arabs would be ready for war—a feeling that was strengthened by a lack of belief in Arab ability to wage a coordinated modern war. As a former Director of Israeli Military Intelligence observed, "a mixture of conceit and complacency tended to color the evaluation of future developments in the area."[28] Moshe Dayan was particularly instrumental in propagating the view that war was not to be expected for another ten years. On July 23, 1973, he said in an interview with *Time Magazine* that over the next decade Israel's borders would freeze along the then prevailing lines. On August 10, 1973, he told the IDF's Staff College that "the balance of forces is so much in our favor that it neutralizes the Arab considerations and motives for the immediate renewal of hostilities."[29] This political outlook had its counterpart in "the conception" of the army high command.[30] The intelligence professionals were not unaffected by this national consensus which in their case was translated into a very significant reduction in the perception of external threat. Threat perception may be said to equal estimated capability multiplied by the estimated intent.[31] Had the intelligence chiefs not been influenced by the current views about the Arabs' intent, they might have given more weight in their evaluations to the demonstrable increase in Arab capabilities which preceded the outbreak of war.

The most difficult and most crucial element in the intelligence craft lies in estimating the enemy's *intentions*. It is one thing to estimate the enemy's capability on the basis of hard evidence that is relatively easy to obtain (although even here there is room for error). It is quite another to adduce the enemy's intention, which is notoriously elusive, on the basis of evidence that is necessarily incomplete and frequently unreliable. And knowledge about capability does not supply an infallible clue to intentions. As George F. Kennan has observed:

> In everything that can be statistically expressed—expressed, that is, in such a way as not to imply any judgment on our motivation—I believe the Soviet Government to be excellently informed about us. I am sure that their information on the development of our economies, on the

[28] Major-General Chaim Herzog, *The War of Atonement* (London: Weidenfeld and Nicolson 1975), 41.

[29] Quoted in *Al-Hamishmar*, 14 September 1975.

[30] The army's mood of overconfidence is illustrated by the following comment of an eminent Israeli general: "Israel's principal enemy in the 1970s is the Soviet Union. . . . The Arabs are merely secondly enemies who harass Israel in the area of relatively minor defence problems." Uzi Narkiss, "The Israel Defence Forces in the 1970s," *Brassey's Annual*, 1972, 91.

[31] J. David Singer, "Threat Perception and the Armament-Tension Dilemma," *Journal of Conflict Resolution*, II (March 1958), 94; D. G. Pruitt, "Definition of the Situation as a Determinant of International Action," in Kelman (fn. 18), 400.

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> state of our military preparations, on our scientific progress, etc., is absolutely first-rate. But when it comes to the analysis of our motives, to the things that make our life tick as it does, I think this whole great system of intelligence-gathering breaks down seriously . . . because . . . the Communist Party has made it impossible for the people who collect the factual information to accompany that information with any really objective analysis of the nature of Western society. The Soviet diplomatic representative or journalist abroad has no choice but to cast his analytic report in terms of Marxist-Leninist ideology. . . . In this way the Soviet leaders find themselves committed to a badly distorted image of the outside world. . . . Thus . . . they apprehend everything about us but the main things. They view us as one might view the inhabitants of another planet, through a very powerful telescope. Everything is visible; one sees in the greatest detail the strange beings of that other world going about their daily business . . . but what one does not see is the motivation that drives them on their various pursuits. This remains concealed; and thus the entire image, clear and intelligible in detail, becomes incomprehensible in its totality.[32]

The difficulty in understanding the enemy's intentions despite the wealth of information about his capabilities is not, of course, confined to the Soviet Union or to countries with closed political systems; nor is Marxist-Leninist ideology the only distorting prism that stands in the way of an objective analysis. The problem is a universal one. Any national intelligence estimate must be very largely concerned with the enemy's intentions. In assessing these intentions, intelligence analysts employ models, theories, or conceptions that are the functional equivalents of an ideology. These too make certain assumptions about the target country. The commonest mistake is to make an uncritical interpretation of the enemy's intentions by applying a theory or model based on assumptions that may be correct about oneself, but are not necessarily correct about the enemy. Failure of an intelligence prediction can be reduced, in the last analysis, to a misunderstanding of the foreigners' conceptual framework—i.e., a failure to understand properly the assumptions or interpretations of the situation upon which foreigners base their decisions.[33]

After isolating the use of inapplicable assumptions within the framework of a theory or model or set of expectations as the critical source of faulty intelligence evaluations, one can advance the analysis further with the help of concepts that have been developed by Klaus Knorr.

[32] Kennan, *Russia, The Atom and the West* (New York: Harper and Row 1957), 21-22.

[33] Benno Wasserman, "The Failure of Intelligence Prediction," *Political Studies*, VIII (June 1962), 166-67.

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Knorr distinguishes between "technical surprise" and what, for lack of a less inelegant term, he calls "behavioral surprise." A "technical surprise" is one not incompatible with the prevalent set of expectations. It occurs because the opponent was successful in concealing a particular capability or in keeping a particular course of action shrouded in secrecy. "Behavioral surprise" occurs when the opponent's behavior is incompatible with our set of expectations. There are three causes of "behavioral surprise."[34]

First, the opponent may act irrationally.[35] Highly irrational behavior is, of course, extremely difficult to predict since it may follow directions that make no sense to the rational mind.

Second, the regnant set of expectations may be unrealistic because intelligence bodies are incompetent or strongly under the influence of "national images" of the outside world that are based more on myth or wishfulness than on objective perception.

Third, an opponent's pattern of behavior may change as a result of changes in leadership or various other important conditions; a set of expectations, though realistic in the past, may not register this change quickly and correctly. The set, in other words, may be out of date.

The surprise caused by the Arab attack of October 6, 1973, was a "behavioral surprise"; its origins can be traced to the third cause enumerated by Knorr. "The conception" (which is taken here as the equivalent of what Knorr calls "a set of expectations") was probably valid for the immediate aftermath of the 1967 war. The basic assumption on which it was based, namely, that Egypt would not begin a war unless she could neutralize Israel's air superiority, was probably a correct assumption. But the situation changed radically when Egypt advanced a network of SAM missiles to the Suez Canal as the ceasefire came into force in August 1970.[36] This meant that Egypt's forces could operate on the East side of the Canal under an air umbrella, obviating the necessity to strike directly at Israeli airfields. On the political front, President Sadat's increasingly untenable position prompted him to decide to unfreeze the status quo by initiating hostilities against Israel with the hope that this would spark off intervention by the superpowers who would impose a settlement on Israel. Far from

[34] Klaus Knorr, "Failures in National Intelligence Estimates: The Case of the Cuban Missiles," *World Politics*, XVI (April 1964), 462-63.

[35] For a discussion of the question of rationality see Sidney Verba, "Assumptions of Rationality and Non-Rationality in Models of the International System," *World Politics*, XIV (October 1961).

[36] The former Israeli Air Force Chief, Major-General Ezer Weizmann, had argued at the time that if the missile sites were not destroyed, Egypt would be able to launch a war at any time that suited her.

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being an irrational and suicidal act, as Israeli doctrine assumed, Sadat's decision under the conditions of 1973 represented a subtle combination of force and diplomacy at the service of rational and limited aims. In other words, "the conception" was simply out of date, having failed to register the important strategic and political changes that took place between 1970 and 1973. It is true that the crisis of May 1973 appeared to vindicate "the conception," but that crisis was not part of Sadat's plan of action; the fact that war on this occasion was not precipitated by the Arabs did not in itself make the basic assumption of "the conception" any less inapplicable.

IV. The Institutional Roots of Surprise

Bureaucratic organizations are not immune to the limitations and weaknesses that lead individuals to make faulty evaluations, or to the tendency to interpret incoming information in such a way as to confirm established theories and to eschew any radical criticism and the jettisoning of cherished ideas. Indeed, institutional factors may increase the human and psychological propensity for error. A circular process may evolve: a newspaper or a diplomatic service adopts a policy, sends out men to report on facts pertinent to it, selects the reports and men that seem favorable to the policy, and then receives from these men further reports more favorable, and so on.[37] Individuals who work for an organization that displays a strong commitment to a policy or outlook will be tempted to send back news which shows that they are on the right side, and to ignore or underplay uncomfortable facts so as not to risk unpopularity with their colleagues and superiors.[38] In these circumstances it is not always possible to distinguish between what is seen and what is regarded as expedient to see.

Once a circular process becomes entrenched in an organization, reality testing is no longer possible. As Kenneth Boulding has noted,

[37] Otto Klineberg, *The Human Dimension of International Relations* (New York: Holt, Rinehart & Winston 1965), 93-94.

[38] David Halberstam, in his study of the American decision-making process on Vietnam, provides numerous examples of this circular process. General Paul Harkins, the American Commander in Saigon, was told by his superior, General Maxwell Taylor, to be optimistic in his reporting on the war. Harkins had his ear tuned not to the field but to Washington and the Pentagon. He reported just what his military superiors wanted to hear: everything was right on schedule, the war was being won, and victory was in the offing. When President Kennedy, increasingly doubtful about the progress of the war, sent a list of specific questions, Harkins sent a reply that was based on the debate in Washington rather than on the situation in Saigon. The reason was that he had received a cable from General Taylor outlining which of Kennedy's questions Harkins should answer, and precisely how to answer them. *The Best and the Brightest* (London: Pan Books 1974), 247, 331-32.

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"All organizations operate as information filters which filter out and condense information as it passes up through the hierarchy, so that by the time that information reaches the powerful decision-makers it has been filtered many, many times. If the powerful decision-makers are able to control their information receivers they are likely to find themselves in an essentially schizophrenic position in which reality testing, in the sense of change of images through disappointment, becomes almost impossible."[39]

Any attempt to deal with this danger must focus on the relationship between the policy makers and the intelligence professionals—a relationship that is of the utmost importance in determining the efficiency with which the national intelligence machinery functions. If the intelligence service is dominated by a group of powerful decision makers, it will become the prisoner of these decision makers' images, dogmas, and preconceptions. Instead of challenging these dogmas and correcting these images when they clash with its objective findings, the intelligence service will be no more than a rubber stamp of these preconceptions. Instead of examining carefully every piece of evidence according to the basic rule that nothing is permanent, it will be reduced to the subservient role of seeking supportive material for already established policy. The failure of the Israeli national intelligence estimates in October 1973 vividly illustrates the disastrous consequences that excessive domination by the political leadership can have. The Intelligence chiefs were not insulated from political pressures, but were in regular contact with the Cabinet and particularly close contact with the *ad hoc* forum in which a small caucus of powerful ministers took all the important decisions on national security—a forum known as "Golda's Kitchen Cabinet."[40] The Intelligence chiefs were consequently ill-disposed toward challenging the dogmas and firmly held beliefs of these politicians who dominated the war-peace establishment. Consciously or unconsciously, they slanted information, analyses, and estimates so they would fit the established policy.

This case points to the need to free the intelligence service of a country from control by the political authority, and lends weight to the

[39] Kenneth E. Boulding, "Social Systems Analysis and the Study of International Conflict," in Alastair Buchan, ed., *Problems of Modern Strategy* (London: Chatto and Windus 1970), 85.

[40] For a more detailed discussion of the deficiencies in the Israeli decision-making system, see Shlaim, "Crisis Decision-Making in Israel: The Lessons of October 1973," *The International Yearbook of Foreign Policy Analysis*, I (London: Croom-Helm 1975). For a comprehensive treatment, see Michael Brecher, *The Foreign Policy System of Israel: Setting, Images, Process* (London: Oxford University Press 1972).

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frequently made but rarely heeded pleas of intelligence chiefs for autonomy and independence. Their argument was clearly summed up by Allen Dulles, the former Director of the CIA, when he wrote that "for the proper judging of the situation in any foreign country it is important that information should be processed by an agency whose duty it is to weigh facts, and to draw conclusions from those facts, without having either the facts or the conclusions warped by the inevitable and even proper prejudices of the men whose duty it is to determine policy and who, having once determined a policy, are too likely to be blind to any facts which might tend to prove the policy to be faulty."[41]

To argue for a clear demarcation of functions between intelligence producers and intelligence consumers is not to argue for the absence of any contact between them, or for mutual ignorance. Good intelligence management must begin with a decision of what needs to be known; such a decision cannot be taken independently of the preoccupations of those in charge of policy. Intelligence is not knowledge for its own sake but for the practical purpose of taking action. To perform its task, the intelligence organization needs to know the issues and problems with which the policy makers are concerned. Without this knowledge, the organization's fact gathering will be diffuse and unsystematic, and the policy makers will not be provided with the relevant information on which to base their policy. An intelligence community is more alert and efficient, and the information it supplies is more accurate and timely, when it is given the right political guidelines and is asked the right questions. This guidance must be provided while at the same time the organization's political independence and administrative autonomy must be fully respected.

If the first danger is that intelligence will be dominated by policy, the second is that it will be too remote and sealed off from the world in which policy is planned to serve a useful purpose. No hard and fast formula for governing the relationship between intelligence producers and consumers can be provided. It is a question of striking the right balance in each particular national context. Only a general rule can be suggested; it has been stated by Sherman Kent: "Intelligence must be close enough to policy, plans and operations to have the

[41] U.S., Congress, Senate, "Memorandum Respecting Section 202 (Central Intelligence Agency) to the Bill to provide for a National Defense Establishment, submitted by Allen W. Dulles, April 25, 1947"; *Hearings Before the Committee on Armed Services*, 80th Cong., 1st sess., 525.

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greatest amount of guidance, and must not be so close that it loses its objectivity and integrity of judgment."[42]

The Yom Kippur failure illustrates not only the danger of subordinating intelligence to a dominant and centralizing political authority, but also the danger of dependence by the political authorities on a single source of intelligence evaluation. There were at least four agencies that carried out intelligence work in Israel before the last war: Military Intelligence; the Central Institute for Intelligence and Security (*Hammosad*), which operates primarily in foreign countries; the *Shin Beth*, which is responsible for internal security, counterespionage, and combatting Arab terrorist activity; and the research department in the Foreign Office, a small unit which deals with political intelligence. But Military Intelligence had a monopoly over national intelligence evaluation. It alone provided the civilian authorities with evaluations on such vital questions as: Would war break out? Where would the attack come from and when? What would be the scale of the war and what is the capability of the attacker? In its analysis of the failure to anticipate the Arab attack, the Agranat Commission stressed the decisive influence exercised by the Director of Military Intelligence and his research department on the assessment of information about enemy plans and intentions. That influence stemmed from their position as the sole center in the country where military intelligence was evaluated, as well as from their position as the guardians of all the intelligence information received from the other intelligence-gathering agencies. It was they who processed all the data, gave an evaluation of them as intelligence, and decided what should be distributed, in what form, and to which body.[43]

The observation that Israel's leadership held excessive sway over Military Intelligence and that it was unduly dependent on that agency

[42] Kent, *Strategic Intelligence for American World Policy* (Connecticut: Archon Books 1965), 180. The relationship between intelligence producers and consumers is also discussed in Roger Hilsman, *Strategic Intelligence and National Decisions* (Glencoe, Ill.: Free Press 1956); Washington Platt, *Strategic Intelligence Production* (New York: Praeger 1957); Harry H. Ransom, *Central Intelligence and National Security* (Cambridge: Harvard University Press 1958); Wasserman (fn. 33); William J. Barnds, "Intelligence and Foreign Policy: Dilemmas for a Democracy," *Foreign Affairs*, XLVII (January 1969); and the following review articles: Willmoore Kendall, "The Function of Intelligence," *World Politics*, I (July 1949); Allan Evans, "Intelligence and Policy Formation," *World Politics*, XII (October 1959); and Harry H. Ransom, "Strategic Intelligence and Foreign Policy," *World Politics*, XXVII (October 1974).

[43] This monopoly of evaluation by one agency has no parallel in the intelligence systems of the major Western powers or even in the leading Communist powers. For a concise description of the intelligence systems of the United States, Britain, France, the Soviet Union, and China, see *Encyclopaedia Britannica*, 15th ed., s.v. "Intelligence and Counter-intelligence," by Harry H. Ransom.

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may sound paradoxical, but it is nonetheless an accurate description of the situation which prevailed from 1967 on. In contrast to David Ben-Gurion who, in his capacity as Defense Minister, always insisted on reporting personally to the Cabinet on military and intelligence matters, Moshe Dayan regularly invited high-ranking officers to brief the Cabinet, a practice that tended to blur the line of division between ministerial and military responsibility. Moreover, in the absence of any machinery or staff work at Cabinet level capable of providing an evaluation of its own or checking the evaluations presented by the Director of Military Intelligence, the acceptance of the latter's estimates was a foregone conclusion.[44] The influence of Military Intelligence was also enhanced by the absence of an orderly procedure for the formulation of national intelligence estimates, a situation that left it to the professionals to tell the politicians what they thought the politicians should know, instead of the usual practice whereby the politicians tell the professionals what information they need to have. In her account, Golda Meir, the Israeli Prime Minister at the time of the October War, suggests that it would have been unreasonable for mere civilians like herself to challenge the confidently presented estimates of the military experts,[45] but this is surely an anomalous position for the head of a democratic state to find herself in. The responsibility for permitting such a situation ever to emerge rests entirely with the politicians and not with the military.

The monopolistic structure of the intelligence community was largely responsible for the narrow, dogmatic, and monolithic thinking that characterized the estimates presented to the policy makers. It precluded the wider vision, depth, and subtlety which the confrontation of independent evaluations and opposing points of view can produce. It is true that the task of the policy makers of deciding on a course of action will not be made easier if they are presented with a full and variegated intelligence picture that contains multiple appraisals of the situation, but the chances of a fatal error will also be reduced. It is a matter for speculation whether the Israeli Government would have decided on general mobilization before it actually did, or would have sanctioned a preemptive strike, if it had been given two evaluations one of which predicted an Arab attack. In any case, its awareness of the dangers confronting the state would undoubtedly have been more acute. If this sounds like wisdom after the event, it is pertinent to recall that the case for greater pluralism in the organization of intelli-

[44] Herzog (fn. 28), 40-41.
[45] Golda Meir, *My Life* (London: Weidenfeld and Nicolson 1975), 357-59.

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gence was argued as early as 1963 in a report commissioned by Prime Minister David Ben-Gurion.[46] The authors of this report felt that "it is vital that the Prime Minister should have estimates on political security and other matters which are balanced and based on varying points of view and do not necessarily come from a single channel." To this end they recommended the reinforcement of the research department of the Foreign Ministry so as to enable it to present independent evaluations, and the appointment of a special intelligence adviser to the Prime Minister with extensive powers of surveillance and investigation.

The Agranat Commission of Inquiry deprecated the failure to implement these recommendations and noted that, far from being strengthened, the research department of the Foreign Ministry had actually been whittled down. In its conclusion it stated that "the state of affairs which existed until the Yom Kippur War—in which independent evaluation of political strategic, operational and tactical intelligence was prevented through centralization in one organization and under one authority on the one hand and the absence of a special intelligence adviser to the Prime Minister on the other—was an important factor in the inability to get a full intelligence picture in all its dimensions."

A sound and comprehensive intelligence evaluation is the product not merely of accurate technical data but also of background political knowledge that helps the analyst to lift the signals out of the confusion of noise. He can then interpret them in the broad perspective of regional and international mutations that have a bearing on the adversary's perceptions and calculations. Evaluations by politically informed amateurs can consequently display more sensitivity than those of military intelligence professionals. Roberta Wohlstetter, for example, in comparing the top-secret intelligence evaluations of Japanese intentions before the attack at Pearl Harbor with estimates in the contemporary press, was struck by the relative soundness of the less privileged judgments, and concluded that general knowledgeability in the world of international affairs and close observation of overt developments are the most useful ingredients in making such estimates.[47] This conclusion is supported by the fact that Israeli observers who stood outside the centers of decision and had no access to classified information estimated enemy intentions correctly. As early as May 1973, Gabriel Cohen,

[46] The report, drawn up by Y. Yadin and Z. Sharef, was presented to Ben-Gurion's successor, Levi Eshkol, on July 31, 1963.

[47] Wohlstetter, *Pearl Harbor: Warning and Decision* (Stanford: Stanford University Press 1962), 169.

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a historian and political scientist, and Yair Evron, an analyst of the country's international relations, were predicting a war in the autumn.[48] The fact that the national intelligence estimates were wholly the work of Military Intelligence—as the Foreign Ministry had long since given up trying to put its own view of things across—is, therefore, particularly significant. Nadav Safran was surely right in suggesting that "the faulty evaluation may have had a structural rather than an accidental basis—the absence of appropriate or sufficient representation of political analysts in the intelligence-evaluation apparatus concerned."[49]

V. Safeguards

In the course of the discussion of the causes of failure in national intelligence estimates, I have made some observations on methods of minimizing errors. In the present section I will explore more fully some safeguards whose implementation would tend to reduce the frequency of error.

The view that adherence to rigid conceptions or theories is an important cause of misperception is underlined not only by the case study here examined but also by a number of other historical examples. The Stennis Report attributed the intelligence failure that preceded the Cuban missile crisis of 1962 primarily to the "predisposition of the intelligence community to the philosophical conviction that it would be incompatible with Soviet policy to introduce strategic missiles into Cuba."[50] It was a preconception about Soviet behavior that, according to the Report, did not permit "the indications to the contrary" to be "given proper weight."[51] Similarly, the North Korean aggression in 1950 took the Truman Administration by surprise because its estimates had been based on the theory that the Soviet Union would not engage in overt forms of aggression, involving the risk of a general war, for several years to come.[52] Once a preconception or a theory about the enemy's behavior becomes settled, it is very hard to shake until it is too late because of the stubborn human attachment to old beliefs and the equally stubborn resistance to new material that will upset them.

Yet, the making of assumptions and the employment of hypotheses

[48] *Times Literary Supplement*, 12 July 1974.

[49] Safran, "The War and the Future of the Arab-Israeli Conflict," *Foreign Affairs*, Vol. 52 (January 1974), 216.

[50] U.S., Congress, Senate, *Investigation of the Preparedness Program*, Interim Report on the Cuban Military Buildup by the Preparedness Investigating Sub-Committee, Committee on Armed Services, 88th Cong., 1st sess. (Washington 1963), 2.

[51] *Ibid.*, 11.

[52] Alexander L. George, "American Policy-making and the North Korean Aggression," *World Politics*, VII (January 1955).

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and theories is not a luxury for the intelligence analyst, but a necessity. They are required for selecting and interpreting facts, estimating the likelihood of various contingencies, and clarifying the range of responses available. Pure empiricism is bound to be defeated by the sheer volume and disparity of the evidence. Even if we assume that such a thing as the "unbiased and objective presentation of the facts as they are" were possible, the result would be an encyclopedic accumulation of details, which is not the same as analytic and predictive intelligence geared to the exigencies of sound decision making.

The first safeguard, therefore, is to make the assumptions about the adversary's behavior, and the theories and predictions which are based on them, as explicit as possible. The more explicit they are, the greater will be the likelihood that once they cannot be squared with fresh pieces of evidence, that fact will not go unnoticed, and that a revision of the assumptions will take place rather than an unconscious suppression or distortion of the evidence. The greater the analyst's awareness of the subjective factors which are liable to distort his vision and color his interpretation of the facts he perceives, the better placed he will be to reduce the impact of these subjective factors. Herein lies the advantage of not leaving images, beliefs, preconceptions, and assumptions about the adversary at the level of the subconscious, but bringing them to the surface and reflecting continually and critically upon them.

A second safeguard for intelligence analysts is to examine their attitudes for consistent or supporting beliefs that are not logically linked. These may be examples of psycho-logic.[53] An evaluation in which elements that are not logically connected support the same conclusion should arouse their suspicion. The chances are considerable in such a case that the reasons for a particular evaluation are related to psychology and not to the substance of the evidence.

Third, those who have the primary responsibility for predicting the adversary's plans can only avoid surprise if they constantly revise and update their assumptions and expectations. They must take account of any appreciable change in the military balance of power or a barely perceived change by the enemy of his own capability, as well as political changes in the region and outside which might lead to a shift in the policy of the target country. To this end the gathering of accurate information about political and military developments will not be sufficient. The significance of these developments must be appraised from the vantage point of the other side. Different political cultures

[53] Jervis (fn. 22), 462-63.

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produce different hierarchies of values and preferences; to ignore these would court failure because the enemy's considerations may be set in a totally different psychological and political context, leading to decisions quite different from those one would normally expect. Pearl Harbor is an outstanding example of strategic surprise caused by inability to imagine the enemy's psychology and to examine the policy alternatives from the enemy leaders' point of view, as well as the attribution to the enemy of inapplicable standards of logic. As Roberta Wohlstetter has put it, "our own standards, as we have observed them in military and State Department documents, reckoned the risks to the Japanese as too large, and therefore not likely to be taken. They were too large but they were going to be taken. And we missed this apparently illogical connection because we did not include in our reckoning any consideration of the alternative of 'gradual exhaustion' and the danger of encirclement and defeat without having struck a single blow."[54]

A fourth safeguard consists of applying several hypotheses or theories to the data available so as to avoid becoming the slave of the dominant theory. To quote Wohlstetter again: "A willingness to play with material from different angles and in the context of unpopular as well as popular hypotheses is an essential ingredient of a good detective, whether the end is the solution of a crime or an intelligence estimate. This sort of flexibility is probably not good for one's reputation as a sound estimator, since one index to sound judgment is agreement with the hypothesis on which current departmental policy is based. But intelligence is always confronted with this choice: whether to be popular or alert."[55] This fourth safeguard is most difficult to implement in the context of a small and homogeneous group of analysts. A large and diverse group would facilitate multiple advocacy and the probing of information from different perspectives so as to guard against the fallibility of all the individuals involved.

Joseph de Rivera has taken this idea a step further in his suggestion that the organization itself must institutionalize a procedure that forces officials to try to disprove their own beliefs by setting up a routine procedure for systematically searching out information that goes against their view of reality. A group should always be assigned to make the opposition case. This group should:

1. Be composed of competent men who are identified with the office, department or administration, and who have the trust and confidence of the leadership and access to it.

[54] Wohlstetter (fn. 47), 354.
[55] *Ibid.*, 302.

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2. Be given a fair opportunity to periodically present their case.
3. Be given feedback so that they are assured that the leadership understands the case they present.
4. Be given the authority to ask the leadership to state the assumptions on which the policy is based.[56]

It is important, says de Rivera, for such a group to continue its work *after* the organization is committed to a particular view or policy. Usually, after a decision has been made, all persons are expected to pull together. Those who cannot commit themselves generally leave the organization. Consequently, once it is committed to a policy, the organization becomes even blinder than a single individual would be.

The suggested group would:

1. Continue to actively look for information contrary to the office, department or administration's ideas and plans.
2. Serve as a repository for such negative information.
3. Insure that filters in the information system were properly placed, that adequate feedback was being given, and that unpopular views were being heard at high levels.
4. Make out the most reasonable case possible for alternative beliefs and plans.
5. Be ready to suggest new policy if and when changing conditions substantiate the opposition's viewpoint.[57]

An alternative method of institutionalizing the process of confrontation of ideas and the consideration of unpopular hypotheses and evaluations is the appointment of a devil's advocate within the intelligence apparatus.

The idea of a devil's advocate is of course not a new one, but success in implementing it appears to be inversely related to the frequency with which it is advanced. That this should be so is not surprising because decision makers as a rule have little time or inclination to engage in protracted debates; the whole emphasis is on reaching swift and unequivocal decisions. Moreover, they tend to surround themselves with advisers who share their views; the capacity to tolerate, let alone benefit from, protracted dissent is the exception rather than the rule. Joachim von Ribbentrop, for example, Hitler's Foreign Minister, had an unshakeable conviction that Great Britain would never go to war against Germany. All members of his staff received a warning: "If it came to my notice that anyone had expressed a contrary opinion I would kill him myself in his office, and take responsibility before the

[56] De Rivera, *The Psychological Dimension of Foreign Policy* (Columbus, Ohio: Charles E. Merrill Publishing Co. 1968), 61-62.
[57] *Ibid.*, 62.

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Führer for it."[58] As Ole Holsti, who quotes this example, wryly remarks, even a less extreme warning would no doubt have sufficed to protect von Ribbentrop from the discomforts of dissent. Individuals who "rock the boat," particularly if they do this persistently and vociferously, are neither welcomed nor rewarded in government, and rarely stay there for very long. For devil's advocates to work effectively, therefore, it is not enough to appoint them and then to tolerate with ill-disguised impatience their questioning of agreed assumptions and their challenges to the conventional wisdom. Unless they are actively supported and encouraged by the people at the top, and are seen to be supported and valued, their views will carry little weight, and their colleagues will conclude that the only safe position is that which confirms what the leaders are presumed to prefer.[59]

VI. Institutional Reform

Unlike the preceding discussion of safeguards, any discussion of the institutional reforms for the improvement of intelligence estimates must focus directly on the specific national organization, because reforms that might be useful in one country may well be unnecessary or even counterproductive in another. The Agranat Commission made five proposals for reform which are worth quoting at length; although they refer directly to the Israeli intelligence services, the ideas that underlie them are of general interest and, with appropriate modifications, are applicable elsewhere.

The first proposal calls for the appointment of a special intelligence adviser to the Prime Minister, backed by a small but highly able team that would permit the Prime Minister and the Cabinet to undertake an independent political-strategic intelligence evaluation by drawing on all the material gathered by the various agencies. At the same time, such an adviser must not isolate the heads of the intelligence community from direct contact with the Prime Minister.[60]

[58] Gilles Perrault, *The Secrets of D-Day* (Boston: Little, Brown 1965), 171.

[59] Holsti, *Crisis Escalation War* (Montreal: McGill-Queen's University Press 1972), 208-12.

[60] If this last point is not observed, the danger is that the Prime Minister will not be acquainted with the conflicting views that exist within the intelligence apparatus, and become excessively dependent for information and evaluations on his adviser—with all the dangers that this involves. Walt Rostow's use of his power as Special Assistant to President Johnson to screen the flow of information and keep dissident experts away from the White House—which had the desired effect of preventing the President from becoming fully aware of the extent of disaffection with the Vietnam War and the grounds for it—suggests that the existence of a powerful adviser with strong views of his own can defeat the objective of making the Prime Minister better informed. See Janis (fn. 24), 124.

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Second, the Commission urges the reinforcement of the research department of the Foreign Ministry by organizing it as an independent body within the Ministry, and by allocating to it the appropriate staff from the point of view of quantity and quality. One of the principal tasks of the department would be the carrying out of independent political-strategic evaluations especially on the basis of the special material at its disposal.

Third, the Commission recommends the fixing of clear rules to govern the distribution and feedback of the raw intelligence material by the gathering agencies to the various research setups and to the Defense Minister and Prime Minister. The significance of this apparently humdrum suggestion can be gauged from the statement of the Chief of Staff at the time of the October War that Military Intelligence received some four hundred messages during the run-up to the war; some of them, referring explicitly to the impending outbreak of war, were not shown to him. If he had seen them, they might have led him to adopt a different estimate regarding the likelihood of war.[61]

A fourth recommendation calls for the substantive restructuring of Military Intelligence to ensure that the center of gravity of research and evaluation will be in the sphere of military, strategic, operational, and tactical intelligence; to give encouragement and adequate opportunity for expression to the different and conflicting views held by members of the research department in the evaluations that are transmitted by Military Intelligence to other bodies; to secure the appointment of suitable personnel, including civilians, to the research department, with optimal channels of promotion and rotation within and outside the department; and to maintain continuous surveillance of intelligence estimates.

Finally, the Commission suggests that an evaluation unit should be set up inside the Central Institute of Intelligence and Security (*Hammosad*) to evaluate the information collected by the Institute.

All these proposals are evidently inspired by the desire to introduce and maintain a degree of pluralism in the structures and processes for reaching national intelligence estimates. But it should be pointed out that pluralism is not an infallible remedy for the problems that beset the Israeli or any other intelligence system. Pluralism has its own drawbacks and attendant dangers, such as the diversion of resources, the duplication of effort, and the growth of friction and jealousies be-

[61] Lieutenant-General (Res.) David Elazar, "Memorandum on the Report of the Commission of Inquiry on the Yom Kippur War," unpub. memo, Tel-Aviv, May 1975.

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tween the various branches of the intelligence community. The structural complexity of American wartime intelligence, for example, accentuated the blocks to communication which exist in any large organization, and the intraservice and interservice rivalries that were occasionally carried to the point of withholding secret information. That complexity was among the important causes of the failure to decode properly the mass of signals announcing the impending Japanese attack. Once again, there are no simple solutions. A *modus vivendi* must be sought which minimizes the dangers inherent in rigid homogeneity and centralization on the one hand and excessive fragmentation and pluralism on the other.

An idea that has attracted considerable attention in the course of the intense public debate on the war-peace establishment in Israel which was unleashed by "the breakdown" is that of setting up a National Security Council. Many alternative versions have been advanced, but the central idea is that the task of making national intelligence estimates would be entrusted to an independent body consisting of official and outside experts on defense, intelligence, economics, foreign policy, and international relations. This body would not replace any of the existing intelligence agencies, but would draw on all their raw data and processed information. It would have no decision-making power of its own, but would be required to present to the Cabinet a comprehensive and variegated intelligence picture, giving alternative evaluations of the situation and outlining the main options available. The Council should intimate to the Cabinet which evaluation commands the strongest support and which option it favors for dealing with a situation. Under no circumstances should it confine itself to a single evaluation and recommendation. Such a system would appear to combine many of the ingredients of a healthy intelligence organization—such as flexibility, the adequate representation of political analysts, the careful consideration of information from a variety of angles, and the ability to promote openness and caution on the part of policy makers by not presenting them with a shallow and one-dimensional evaluation based on the lowest common denominator of agreement. At the same time, it would avoid the consequences of subordination to the preconceptions of the political leaders and the monopoly of the army over national security matters, which played such a decisive role in the failure of October 1973. It is noteworthy that a number of defense experts and former Directors of Military Intelligence have put the weight

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of their authority behind the proposal for a National Security Council.[62]

VII. Conclusions

The search for an infallible system of advance warning of an attack is the search for a will-o'-the-wisp. Neither history nor reflection, and certainly nothing that has been said in the present article, warrant the foolhardy conclusion that strategic surprise can be completely eliminated. National intelligence estimates are concerned both with enemy capability and enemy intentions; however accurate the estimate of the former may be, estimates of the latter will always contain an irreducible element of uncertainty.

It is one of the great paradoxes of intelligence that its greatest successes may be indistinguishable from failures because of the intrinsic uncertainty of strategic warning. This uncertainty is the consequence of the fact that predictions of an enemy's intention to attack must be based on moves that are almost invariably reversible at short notice. Had, for example, American intelligence issued an unambiguous warning of a Japanese attack, leading to an alert at Pearl Harbor, the Japanese, implementing their plans for just such a contingency, would have called off the attack. Since the success of the intelligence services would have been expressed in the falsification of its predictions, it would have been difficult to rebutt charges of a misconstrual of Japanese intentions.

In view of the intrinsic uncertainty of strategic warning, to base strategic doctrine on the assumption that in the event of an attack adequate warning would be forthcoming is to gamble with the nation's security. By making such an unwarranted assumption an explicit and fundamental element of their strategic doctrine, Israeli planners took an incalculable risk. The heavy price that had to be paid for this faulty premise should serve to discourage similar complacency in other countries.

Superficially, the view that technological advance has the effect of making a surprise attack less likely appears attractive. War preparations on any significant scale can be easily detected with the aid of aerial photography, electronic surveillance, sophisticated cryptographic devices, and the like. But a closer examination points to the conclusion that technological advance has shifted the balance of advantage in

[62] Major-General (Res.) Matityahu Peled, "The Management of Defense," *Ma'ariv*, 28 December 1973; Amos Perlmutter, "The Politicization of the Army and the Militarization of Politics," *Ma'ariv*, 19 April 1974; and former intelligence chiefs Meir Amit and Aharon Yariv in interviews in *Ma'ariv*, 5 April 1974 and 26 April 1974 respectively.

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favor of the surprise attacker. In the first place, the monumental increase in the information collected has not been matched by advances in processing this information. The problem of how to cope with the enormous quantity of incoming information is a major difficulty facing many intelligence services. Second, the perfection of means of communication and consequent centralization of the decision-making power has greatly reduced the number of people in the know and thereby the number of potential leaks. Third, the significance of advances in decoding is reduced by the widespread use of "one-time" codes based on random numbers. As Dr. Martin van Creveld has pointed out, these developments lead, on balance, to the conclusion that, in spite of the perfection of means of surveillance and detection, surprise attacks are now more feasible than ever.[63]

The only safe assumption on which to base national defense, therefore, is that there will not be an advance warning of the enemy's plan to attack. If such a warning is in fact provided by the intelligence services, it should be exploited fully. But it must not be counted upon. Unless national defense plans are designed to operate without advance warning, unless they take into account the feasibility of a surprise attack, there is no cause for confidence that setbacks similar to those sustained by Israel in October 1973, or even greater ones, will not occur again.

The history of the Israeli intelligence failure, like the Pearl Harbor episode with which it has so many affinities, provides a number of insights into the phenomenon of strategic surprise, and considerably enriches our understanding of the circumstances in which failures of perception and evaluation are liable to occur. The point of the foregoing discussion of the psychological and structural roots of surprise has been to identify the basic factors that are conducive to faulty perception and evaluation, based on the belief that a recognition and an understanding of these factors can help to reduce their incidence and their impact. No claim of infallibility can be made in respect of the safeguards and institutional reforms that have been suggested. No amount of technical and administrative ingenuity can completely eradicate the human propensity to be caught by surprise. The most that I would assert is that if an intelligence service is soundly organized and its members observe the necessary precautions, the frequency of failure will be reduced and overall performance will be improved.

In the process of increasing the accuracy and reliability of national

[63] See the section on "Intelligence" in Walter Laqueur, *Confrontation: The Middle East War and World Politics* (London: Abacus 1974), 111-12.

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intelligence estimates by means of a more profound understanding of the human and organizational dynamics involved, historians and social scientists have a role to play which has not been adequately recognized. Both the mistrust of "intellectuals" and the secrecy in which intelligence work is usually shrouded constitute a barrier to a fruitful interplay between conceptual enterprise and empirical research. The objective of this interplay should be the gradual development of a theory of intelligence that will link together a large body of fragmentary insights, testable hypotheses, and partial theories produced by cumulative research and that is of more than purely academic interest. In the absence of theory, as Klaus Knorr has argued, "we have no criteria (indicators!) for judging whether intelligence work . . . is done well or badly or for specifying ways of improving it."[64]

The investigation of historical case studies is of distinct utility in the building up of a theory of intelligence. The interests of the social scientist, however, do lead him to attempt to go beyond the narrative of events and the enumeration of relevant factors into a search for explanatory theory that transcends the bounds of the particular case. The fact that most theorists have a low opinion of case studies may be simply the result of the atheoretical character of the case studies made in the past. What we need is a new kind of case study which tests hypotheses, refines propositions, and in general seeks to advance conceptual enquiry with the aid of empirical research.

Ultimately, a well-substantiated theory of intelligence should have valuable practical applications to the formulation of effective prescriptions. As Kurt Lewin pointed out, "Nothing is so practical as a good theory." But until we have a good theory—one that is supported by systematic research and case studies—we must recognize that any prescriptions we draw up are tentative inferences based on what little we know about when and why intelligence failures occur.

[64] Knorr, *Foreign Intelligence and the Social Sciences*, Center of International Studies, Princeton University, Research Monograph No. 17 (Princeton 1964), 47.

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HINDSIGHT AND FORESIGHT: A Conceptual Framework for the Analysis of Surprise Attacks

By ABRAHAM BEN-ZVI*

DURING the years immediately following the Second World War, intensive research was undertaken on the subject of surprise attacks and their origins. Events such as the German onslaught on the Soviet Union and the Japanese attack on Pearl Harbor aroused considerable interest among scholars, who have produced a voluminous literature on the subject.

In most cases, the works published sought to explain surprise solely in terms of certain specific circumstances and conditions operating at the time of the event analyzed. These studies, absorbed in the peculiarities of the case under scrutiny, remained oblivious to the possibility that it could be integrated into a broader theoretical context.

It was not until 1962 that an inquiry appeared which sought to employ certain analytical concepts and tools in an effort to provide a more comprehensive and multidimensional understanding of the roots of surprise. Roberta Wohlstetter's *Pearl Harbor: Warning and Decision* concentrates on one historical event. At the same time, it is intended to be applicable to the problem of human perception in any crisis situation:

> The history of Pearl Harbor has an interest exceeding by far any tale of an isolated catastrophe that might have been the result of negligence or stupidity or treachery, however lurid. For we have found the roots of this surprise in circumstances that affected honest, dedicated, and intelligent men. The possibility of such surprise at any time lies in the conditions of human perception and stems from uncertainties so basic that they are not likely to be eliminated, though they might be reduced.[1]

Wohlstetter's central thesis is that the Pearl Harbor surprise occurred not for lack of relevant intelligence data, but due to misperceptions of the available information.

Because the information gathered did not unambiguously indicate an impending attack on Pearl Harbor, but was accompanied by "noise"

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[1] Wohlstetter, *Pearl Harbor: Warning and Decision* (Stanford: University Press 1962), 397.

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pointing in other directions as well, American policy makers tended to act upon those bits of information that were in accordance with their own preconceived notions. Thus, they believed that a direct Japanese attack on American soil was highly unlikely as long as the United States maintained a strong and uncompromising posture and military superiority over Japan.[2] Henry L. Stimson, Secretary of War in President Roosevelt's Cabinet on the eve of Pearl Harbor and one of the most powerful figures involved in the decision-making process concerning Japan, stated: "I entirely fail to see the dangers [involved in the application of economic sanctions] by a nation as powerful as ours against another nation as susceptible to them as Japan is in her present condition."[3]

Although at first glance it seems strange that a country which had at its disposal the most sophisticated methods for gathering intelligence (American cryptanalysts managed to break the Japanese diplomatic code sixteen months before Pearl Harbor) was not totally immune from surprise, it must be borne in mind that today's perceptions of the chain of events differ from those of 1941. With the wisdom of hindsight, of course, one is free to ignore all the "noise" in which the warning signals were embedded.[4]

Wohlstetter's work raised the level of discussion, for the first time, above the incessant quarrels over who was to blame, and emphasized the perceptual bases of the decisions made. However, her analysis was still drawn from hindsight, albeit of a different kind. The problem remained of distinguishing true warning signals from the plethora of "noise" on the eve of an attack—instead of the morning after.

Studies that have appeared since Wohlstetter's book have more or less adopted her terminology and methodology, but have not developed her ideas much further. For example, Holst's analysis of the German surprise attack on Norway, on April 19, 1940, is rigorously patterned on Wohlstetter's Pearl Harbor study.[5] Barton Whaley, in *Codeword Barbarossa*, adopts Wohlstetter's definition of the term "signals." However, he criticizes her use of the term "background noise," arguing

[2] Ben-Zvi, "Prelude to Pearl Harbor: American Images and Policies Toward Japan, 1940-1941," Ph.D. diss. (University of Chicago 1973), 37-110 passim.

[3] Letter sent by Stimson to Senator Key Pittmann, Chairman of the Senate Foreign Relations Committee, on April 25, 1939. "Henry L. Stimson—Correspondence, 1939," Yale University Library.

[4] Wohlstetter (fn. 1), 387. See also Klaus Knorr, "Failures in National Intelligence Estimates: The Case of the Cuban Missiles," *World Politics*, XVI (April 1964), 457.

[5] Johan Jorgen Holst, "Surprise, Signals and Reaction: The Attack on Norway, April 9, 1940—Some Observations," *Cooperation and Conflict*, I (1966), 31-45.

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that a distinction should be made between information that is simply irrelevant, and "disinformation" which represents false information deliberately disseminated by the enemy. Thus, Stalin was not confused by ambiguous "noise" but fell victim to the German effort to reduce the ambiguity of the signals and misdirect his perceptions by means of a masterful deception.

> What Hitler had done was not to make Stalin merely uncertain and therefore indecisive. His cunning 'ultimatum' stratagem served to eliminate ambiguity, making Stalin quite certain, very decisive, *and wrong*. Stalin was misled into expecting an ultimatum before any attack, thereby giving him the option of conceding or preempting. . . . By the judicious transmission of disinformation, [Hitler] masked not only the timing and direction of his attack, but also his very intention to attack.[6]

Although Whaley's distinction is useful for understanding historical events, his analysis—like Wohlstetter's—is based strictly on hindsight. Such studies offer no suggestions for predicting or preventing surprise attacks, nor do they claim to do so.

The need still remains to convert "post-mortems of past intelligence performances"[7] into an *operational* theory of intelligence, a theory which will categorize the key variables associated with the past cases of surprise and develop a cluster of "sophisticated expectations about surprises."[8]

I. Theoretical Framework—Presentation and Applications

As a step toward further conceptualization and differentiation of the problem of surprise, this article suggests a new framework of analysis. This framework is based upon the finding that among the fragments of information that are routinely collated by an "observing state" (State B), some are perceived as inherently valid. Convinced that certain bits of information pertaining to statements and actions that take place in the "observed state" (State A) have dimensions and characteristics which are beyond the ability of State A to control or manipulate, State B tends to view them as basically useful indicators of reliable intelligence. Examples of such indicators include private messages State B overhears or intercepts, patterns of behavior that disclose—unknown to State A—important information, and major actions that involve high

[6] Whaley, *Codeword Barbarossa* (Cambridge: MIT Press 1973), 242; emphasis in original.

[7] Knorr (fn. 4), 466.

[8] *Ibid.* See also, in this connection, Harry H. Ransom, "Strategic Intelligence and Foreign Policy," *World Politics*, XXVII (October 1974), 144-46.

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costs.[9] On the basis of this information, State B makes assumptions about what actions are possible, and what actions are, in fact, being carried out.

Assumptions of possibilities are those explicit and implicit assumptions held by State B about the conditions and circumstances under which State A would strike. *Assumptions of actualities* are assumptions that have become realities in the eyes of the observing state, or that are on the verge of realization. Within each category, the assumptions may concern either strategic or tactical situations.

A. ASSUMPTIONS OF STRATEGIC POSSIBILITIES

A review of a number of outstanding cases of failures in intelligence estimates illustrates the subjective nature of the various assumptions of strategic possibilities held by the observing state.

1. *The Barbarossa Operation.* One example of an assumption of strategic possibility is reflected in Stalin's belief that Hitler *must* issue an ultimatum before war would break out.[10] The fact that prior to April 9, 1940, Germany had made ultimate demands before undertaking military action, convinced Stalin that this pattern would continue in the future:

> Prior to the Nazi attack on the Soviet Union in 1941, ample high-quality intelligence of Hitler's military dispositions and plans was available to Stalin. The Soviet leader, however, could not believe that Hitler would launch a surprise attack. Stalin's image of the Nazi leader's behavioral style encouraged him to believe that Hitler would first present demands and attempt to bargain before deciding whether he needed to resort to force. The menacing Nazi military build-up on the Soviet border, Stalin evidently believed, was intended to set the stage for serious negotiations and bargaining.[11]

2. *The Pearl Harbor Attack.* The belief that, so long as the United States maintained an overall military advantage over Japan, war was

[9] Robert Jervis, *The Logic of Images in International Relations* (Princeton: Princeton University Press 1970), 18-19, 26-27.

[10] *Ibid.*, 26; Whaley (fn. 6), 240-44.

[11] Alexander L. George and Richard Smoke, *Deterrence in American Foreign Policy: Theory and Practice* (New York: Columbia University Press 1974), 582. Similarly, Haldvan Koht, Foreign Secretary of Norway and its major policy maker, expected to receive an ultimatum from Hitler. This expectation was based on the observed German behavior during the preceding crises over Austria, Czechoslovakia, and Poland. The Germans had, in fact, warned Koht against giving in to Allied pressure over the ore traffic and the Finnish crisis, but these warnings were not interpreted as explicit ultimata. Whereas Koht did not doubt Germany's capabilities to attack Norway, he was not at all convinced, in the absence of an ultimatum, that it intended to strike, and therefore was surprised by the German attack. Holst (fn. 5), 39.

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unlikely to break out, was an assumption of strategic possibility frequently expressed during the months preceding the Pacific war by a number of high-ranking administration officials, such as Secretaries Stimson and Morgenthau. Stimson, for example, observed that "[he did] not think . . . the Japanese would attack [American territory] even if [the U.S.] put an embargo on raw materials for arms. All the evidence . . . indicates that they are more afraid of war with the U.S. than anything else."[12] And again: "Experienced observers have promptly recognized and publicly stated that such a fear [of an American-Japanese war] was without credible foundation; that the very last thing which the Japanese Government desires is a war with the U.S.; and that, on the contrary, every act and word of our government in respect to the Orient is followed with most anxious solicitude in Japan. . . ."[13]

Oblivious to the spate of messages sent by Joseph Grew, the American Ambassador in Tokyo, which warned against assuming that continuing economic sanctions would automatically force Japan to adopt a restrained policy toward the United States, and which emphasized that the Japanese temperament could not be measured by American standards of logic,[14] American policy makers remained firm in their conviction that the Japanese decision whether or not to wage war would be based primarily on military considerations, rather than on nationalistic, ideological, or psychological grounds.

The development, in 1940, of the B-17 Flying Fortress, designed to threaten Japan with the use of air power against the crowded Japanese Islands, further strengthened the belief that Japan would not dare to challenge the United States directly. It was assumed that the threat of an American air attack from the Philippines would help deter Japanese policy makers from pursuing their scheme for southern expansion.[15]

3. *Chinese Intervention in the Korean War.* During the weeks preceding the Chinese intervention in the Korean War in November 1950, when MacArthur's forces were marching to the Yalu in defiance of

[12] Letter sent by Stimson to the *New York Times*, dated February 11, 1940.

[13] *Ibid.* See also, in this connection, Ben-Zvi, "A Typology of American Preconceptions and Policies Toward Japan, 1940–1941: A Case Study in Misperception," *International Studies Quarterly*, XIX (June 1975), 244-45.

[14] See, for example: Joseph C. Grew, *Turbulent Era: A Diplomatic Record of Forty Years, 1904–1945* (Boston: Houghton Mifflin 1952), Vol. II, 1140; Waldo W. Heinrichs, *American Ambassador: Joseph C. Grew and the Development of the United States Diplomatic Tradition* (Boston: Little, Brown 1966), 355. See also, in this connection, Chihiro Hosoya, "Miscalculations in Deterrent Policy: Japanese-U.S. Relations, 1938–1941," *Journal of Peace Research*, V (Summer 1968), 110.

[15] Russell F. Weigley, "The Role of the War Department and the Army," in Dorothy Borg and Shumpei Okamoto, eds., *Pearl Harbor as History* (New York: Columbia University Press 1973), 183.

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all Chinese warnings, American decision makers operated on the assumption (of strategic possibility) that considerations relating to military capability alone would dictate China's future policies and actions in Korea. Overlooking the possibility that Peking might rate its own capabilities much more highly than did Washington, American policy makers underestimated the Chinese motivation and willingness to take risks, and consequently remained oblivious to the possibility of full-scale Chinese intervention in the Korean War.[16] As George concludes: "U.S. leaders [on the eve of the Chinese intervention in Korea] miscalculated because *they failed to understand the frame of reference from which the Chinese Communist leaders assessed the significance of what the United States was doing in Korea.*"[17]

4. *The Sino-Indian Border War, October 1962.* In an attitude similar to that of the United States toward Japan prior to Pearl Harbor, a number of Indian policy makers, in particular Prime Minister Jawaharlal Nehru and Defense Minister V.K. Krishna Menon, assumed that the Chinese would eventually be pressured by Indian firmness into accepting India's point of view concerning the disputed border region of Ladakh. They believed that, impressed by Indian determination and weakened by internal difficulties such as the failure of the "Great Leap Forward," Chinese leaders would not respond violently to limited Indian provocations, but would exhibit restraint and moderation and, consequently, would not attempt to invade India.[18]

5. *The Arab-Israeli War of October 1973.* An assumption of strategic possibility prior to the Yom Kippur War was the belief, held by a number of Israeli decision makers and high-ranking military officers, that Egypt (or Syria) would not resort to war against Israel unless it could secure control of the skies, or at least have enough air power to support military operations.[19] This assumption was cited by the Agranat Committee, which was set up by the Israeli Government to investigate the origins of surprise in the October War. In its interim report, the Committee stated that "it was assumed that Egypt would not attack Israel unless it achieved the capability to strike Israel's centers of population by air and neutralize Israel's air force."[20] Since Israel estimated it could

[16] H. A. DeWeerd, "Strategic Surprise in the Korean War," *Orbis*, VI (Fall 1962), 447; George and Smoke (fn. 11), 191-92, 213, 583.

[17] George and Smoke (fn. 11), 213; emphasis added.

[18] Steven A. Hoffmann, "Anticipation, Disaster and Victory: India 1962–71," *Asian Survey*, XII (November 1972), 963.

[19] Michael I. Handel, "Perception, Deception and Surprise; The Outbreak of the Yom Kippur War," paper delivered at the Conference on Strategic Issues held in Jerusalem, Leonard Davis Institute for International Relations, April 1975, p. 31.

[20] *The Agranat Report* (in Hebrew) (Tel-Aviv: Am Oved 1975), 19-20.

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maintain its perceived air superiority into the mid-seventies, it did not expect war to break out until that period.

This assumption of Arab reliance on perceived air superiority was a factor, fully integrated into a wider framework of strategic assumptions, which characterized the thinking of Israeli policy makers on the eve of the surprise attack on their country on October 6, 1973. The conviction that considerations pertaining to military capabilities alone would dictate the opponent's decision to wage war against Israel was expressed by Israel's Defense Minister, Moshe Dayan, only two months before the surprise attack on his country:

> The overall balance of power is in our favor, and this fact is overwhelmingly decisive in the face of all other considerations and prevents the immediate renewal of war. . . . Our military advantage is the *outcome of both the weakness of the Arabs and our increasing strength.* Their weakness arises from factors that I do not suppose will quickly disappear. . . . Our superiority can, in my opinion, be maintained in the coming years as well. . . . It is expected that supplies from abroad will continue, and we are able to produce modern weapons. . . .[21]

Theoretically, whenever both strategic and tactical assumptions of actualities converge, an immediate threat will be perceived, leading the observing state to take precautionary measures. However, the question still remains whether a threat will be perceived in cases where the two sets of assumptions—strategic and tactical—conflict.

The episodes of surprise noted above provide examples of situations in which strategic assumptions of possibilities did not converge with tactical assumptions of actualities, and available intelligence was ignored or misinterpreted.

B. TACTICAL INDICATORS OF IMPENDING ATTACK

On the eve of outstanding surprise attacks, such as Barbarossa, Pearl Harbor, Korea, the Chinese onslaught on NEFA (North East Frontier Agency), and the October War, the tactical assumptions that were perceived as possibilties had, in fact, already become actualities. Although in each case the accumulating field information signalling imminent danger was subject to more than one interpretation, there had emerged, particularly within the lower and middle echelons of military intelligence, a coherent and alarming picture which called for vigilance. The tactical perception of danger was the outcome of a continuous process through which many pieces of information were pieced together to form a menacing whole.

[21] *Ma'ariv*, August 10, 1973; transl. by author.

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On the tactical level, it would appear that the presence of confusing "noise" did not obfuscate or eliminate the relevant warning signals that were gathered by the observing state on the eve of war. This is clearly shown by the following examples.

1. *The Barbarossa Operation.* On the eve of the German invasion, the Soviets managed to gather considerable evidence indicating an impending German attack. This evidence was obtained from sources believed to be reliable, as opposed to warning signals received from British and American sources which Stalin regarded with great suspicion. Starting in late April 1941, Soviet military intelligence had been receiving reliable indications of Operation Barbarossa from the superb network Richard Sorge had created in Tokyo. Sorge, a correspondent for the *Frankfurter Zeitung* and a trusted confidant of the German Ambassador in Tokyo, Eugen Ott, was at least as well informed as anyone on the embassy staff.

Sorge's excellent connections and easy access to classified information enabled him to supply Moscow with photographs of telegrams from Ribbentrop to Ott and with memoranda of conversations Sorge held with the German military attaché and a host of high-ranking German envoys who visited Tokyo. One typical report, dated May 20, stated: "Scholl [Lieutenant-Colonel Scholl, assistant military attaché in Tokyo] gave me a detailed account. The attack would begin on June 20; there might be a two or three day delay, but preparations were complete. 170-190 German divisions were massed on the Eastern frontier. *There would be no ultimatum or declaration of war.*"[22]

Another Soviet espionage network, centered in Switzerland, was equally effective. Directed by Alexander Rado, the ring supplied a steady flow of accurate, up-to-date details of virtually every secret of the High Command of the German Armed Forces. One of the network's chief sources was Rudolph Rössler (of the intelligence bureau of the Swiss General Staff) who, in mid-June, categorically stated that a general German attack on the Soviet Union would take place at dawn on June 22. According to Whaley, Rössler's message giving the June 22 date was the first report of his that the Soviet Military Intelligence (GRU) took seriously, because "it fitted in with information that the Russians had obtained from other sources. . . ."[23] It also accorded with and clarified the accumulating data that indicated a large and rapid deployment eastward of a large proportion of the Wehrmacht.

[22] Whaley (fn. 6), 71; emphasis added. See also pp. 72-73.
[23] *Ibid.*, 100-101.

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Menacing as it was, this tactical perception of threat did not lead Stalin to question the validity of the assumptions of strategic possibilities to which he adhered on the eve of the German attack.

2. *The Pearl Harbor Attack*. After deciphering "magic," the top-secret Japanese diplomatic code, in August 1940, the United States was able to obtain ironclad data on Japanese military activity. True, the exact timing or destination of a Japanese attack was never explicitly stated. However, analysis of the messages intercepted during November 1941 had convinced army and navy intelligence experts that the Japanese were about to launch a southeastern campaign during the weekend of November 30 or the weekend of December 7. The analysis also produced a list of probable British and American targets, which included the Philippines and Guam.

The intercepted communications revealed that the Japanese Government had given Kichisaburō Nomura, its Ambassador to Washington, a deadline of November 28 for the conclusion of his conversations with U.S. Secretary of State Cordell Hull. These talks, aimed at avoiding a Pacific conflict between Japan and the "Anglo-Saxon" nations, had been going on since April, and the messages originating in Tokyo were permeated with a sense of despair and deep concern that the United States would refuse to accept the latest and final Japanese proposals for a *modus vivendi*. No less than nine messages of this type were intercepted before December 7. "Should the negotiations collapse," warned one message dated November 14, "the international situation in which the Empire will find herself will be one of tremendous crisis."[24]

Another message, dated November 4, informed the Japanese Ambassador to the United States that the proposal he was instructed to submit was Japan's last effort to prevent something from happening. A recurrent theme in all intercepted messages was that "time was becoming exceedingly short and the situation very critical . . ." and that an "extreme danger of war between Japan and the Anglo-Saxon nations, which might break out with an abrupt suddenness," existed.[25]

Early in November 1941, a last-ditch attempt was made to reach a compromise. Once this attempt was found to be in vain (following the uncompromising "Ten Point Plan" which Hull submitted to Nomura on November 26), it became clear from the intercepted messages that

[24] Wohlstetter (fn. 1), 94; Lyman B. Kirkpatrick, Jr., *Captains Without Eyes* (London: Macmillan 1969), 105-7.

[25] Wohlstetter (fn. 1), 193.

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war with the United States (or with Britain) was indeed imminent. The bulk of messages originating in Tokyo after November 26 indicated that Japan did not intend to resume negotiations, but that it wished to deceive the United States into believing that it still desired the diplomatic dialogue to continue. "The situation continues to be increasingly critical. However, to prevent the U.S. from becoming unduly suspicious, we have been advising the press and others that though there are some wide differences between Japan and the U.S., the negotiations are continuing."[26] Whereas the intercepted messages sent before the rejection of Japan's final proposals contained a faint hope that war would be averted, the later messages made it clear that Japan had finally abandoned the political option.

Despite this tactical evidence, U.S. policy makers remained committed to the very end to their belief that Japan would not dare to challenge the U.S. directly in the Pacific.

3. *Chinese Intervention in the Korean War.* A similar picture of tactical assumptions of actualities emerges from reviewing the intelligence which, in the autumn of 1950, was available for assessing the threat of Chinese Communist intervention in Korea.

On October 3, a United Nations Command intelligence summary reported evidence that twenty Chinese divisions had been in North Korea since September 10, and that "[t]he enemy retains a potential of reinforcement by CCF [Chinese Communist Forces] troops."[27] The next day, covering the reported entry of nine Chinese divisions into North Korea, the General Headquarters intelligence summary observed that recent reports were taking on a "sinister connotation." It again concluded that the potential "exists for Chinese forces to openly intervene in the Korean War, if United Nations forces cross the 38th parallel."[28] Furthermore, on October 20, the first Chinese prisoner was reported, and by November 4, thirty-five Chinese prisoners had been captured and seven additional divisions identified. Finally, "the available intelligence on the deployment of Chinese forces and other indicators of Peking's intentions was good enough to require American leaders at an early stage to take the threat of Chinese intervention more seriously than they did."[29]

The aggregate of tactical assumptions of actualities that emerged in September and October 1950—and should have permeated the strategic

[26] *Ibid.*, 200, citing a dispatch intercepted on December 1.
[27] J. Lawton Collins, *War in Peacetime* (Boston: Houghton Mifflin 1969), 174.
[28] *Ibid.*, 175.
[29] George and Smoke (fn. 11), 208.

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thinking of U.S. policy makers—became more menacing during the period that followed the first phase of China's actual involvement in Korea in late October. A CIA report dated November 6 noted that as many as 200,000 Chinese Communist soldiers were concentrated in Manchuria, and that "substantial Chinese forces were entering or had already entered North Korea."[30] On the same day, a statement from MacArthur's headquarters observed that the UN Command in Korea was confronted with "a new and fresh army" with adequate reserves and supplies. Further intelligence reports had confirmed the fact that United Nations forces were engaged in "hostile contacts with Chinese Communist military units."[31]

It is true that around November 9 the Chinese Communist forces disengaged from contact with UN forces along the entire battlefront. However, the accumulating indications of the Chinese moves did not convince all intelligence analysts that Peking was having second thoughts and might be persuaded to restrict its intervention to minor activity. Indeed, one of the prevailing assumptions, shared by a number of intelligence officers, was that the Chinese disengagement was purely tactical, in accord with Mao's guerrilla warfare doctrine of pulling back to recoup losses or to prepare a trap for advancing enemy forces.[32] This possibility, however, never permeated the strategic thinking of Washington's high policy makers. That elite continued to cling to the preconceived notion that MacArthur might resume his advance to the Yalu without fearing a full-scale Chinese intervention.[33]

4. *The Sino-Indian Border War, October 1962.* An analysis of the dominant preconceptions held by the major Indian decision makers during the months preceding the Chinese attack, as juxtaposed with those of the Director of the Intelligence Bureau (IB),[34] indicates that, whereas Nehru and Menon retained an expectation that the Chinese would not react violently to Indian harassment of Chinese border posts, the Director became convinced in May 1962 that "the Chinese would attack Indian forward positions in Ladakh some time during the autumn."[35]

The basis for Intelligence Director Mullik's concern was his pos-

[30] *Ibid.*
[31] DeWeerd (fn. 16), 447.
[32] George and Smoke (fn. 11), 228.
[33] *Ibid.* See also David M. Lampton, "The U.S. Image of Peking in Three International Crises," *Western Political Quarterly*, XXIV (March 1973), 33.
[34] The Intelligence Bureau is India's civilian intelligence agency, located within the Ministry of Home Affairs; its Director at the time was B. N. Mullik.
[35] Hoffmann (fn. 18), 967.

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session of "two *very important* pieces of intelligence which *clearly* indicated [to him] the way the situation was going to develop within the next few months." These items of information included a secret report originating in the Chinese Consulate in Calcutta which indicated that "the Chinese Government was going to adopt a new line of action against India," and a document which explicitly stated that, "as India had occupied certain posts within Chinese territory, the Chinese considered that military action had become essential to remove this intrusion."[36]

Mullik considered this information as inherently valid, or as tactical assumptions of actualities. He observed:

> The report [originating in the Chinese Consulate in Calcutta] was *so authentic and so alarming* that we immediately passed this on to the Prime Minister, the Home Minister and the Defense Minister. I talked to them personally . . . about the *authenticity* of this report and the *seriousness* of the threat. From the indicators given by the Chinese . . . we apprehended that the Chinese were planning action next autumn.[37]

Throughout the summer of 1962, Mullik continued to be apprehensive of an attack on Ladakh as well as on NEFA. On September 7, he issued an alert concerning Chinese preparations against NEFA, Ladakh, and Sikkim. However, neither Nehru and Krishna Menon nor Army Headquarters took the warning seriously.[38]

This picture of tactical assumptions of actualities became even more coherent and menacing on September 8, 1962, when it was learned that the Chinese had crossed a geographic feature known as Thagla Ridge in Western NEFA, and threatened an Indian post situated in a small river valley on the southern side of the ridge. From the Army's information it was clear to the Intelligence Bureau as well as to the Army's Director of Military Intelligence (DMI), that "the Chinese in the vicinity of Thagla Ridge greatly outnumbered the Indians at all times."[39] According to Mullik's account, he personally presented to Menon, on September 17, a summary of the intelligence picture which showed that fighting in the Dhola area might not be a localized affair. Furthermore, he and his assistants told Krishna Menon, the Army leaders, and Foreign Secretary U. J. Desai of their "definite conclusion to

[36] B. N. Mullik, *The Chinese Betrayal* (Bombay: Allied Publishers 1971), 329-30; emphasis added.

[37] *Ibid.*, 330; emphasis added.

[38] Hoffmann (fn. 18), 968.

[39] *Ibid.*, 971.

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the effect that the Chinese seemed well set for offensive action at this time in Ladakh, Sikkim, and NEFA."[40]

This concern was never translated into appropriate policies and actions. Nehru and Menon continued to perceive the Chinese activities of September 1962 as merely small-scale threats to particular Indian posts, and not as a prelude to a full-scale invasion. Overestimating the capabilities of the Indian Army, they expected "Operation Leghorn" (the planned counteroffensive in the Dhola area) to be almost a surgical operation, which would push the Chinese over the crest of the Thagla Ridge and deter them from future "nibbling" at NEFA.[41]

5. *The Arab-Israeli War of October 1973.* During the week preceding the Yom Kippur War, Israeli intelligence officers stationed in the Southern and Northern Commands accumulated a broad complex of credible information indicating tactical actualities.

On October 1, intelligence headquarters in the Southern Command received a large number of reports indicating unusual Egyptian activities along the Suez Canal. On the same day, a lower-echelon intelligence officer in the Southern Command presented to the Chief Intelligence Officer of the Command a memorandum entitled "Activities of the Egyptian Armed Forces—The Possibility of Renewal of War." Two days later, the officer presented to his superiors an additional memorandum, expanding on his previous report, which concluded that there was a high probability that the Egyptian maneuvers were only a cover for an impending attack. Furthermore, on October 4, an aerial photograph of the Canal revealed equipment for crossing the Canal, as well as massive embankments along the waterway.[42] It was also learned that an operation to evacuate Soviet advisers from Egypt and Syria had begun on October 3 and was proceeding apace.

On the morning of October 5, a number of changes were detected on both the Syrian and Egyptian fronts; these were typical indicators of a change to offensive deployment according to Soviet military doctrine. On the Syrian front, for example, medium artillery was brought forward. Sizable quantities of armor attached to infantry divisions were moved up to the front lines. Simultaneously, the tanks of the armor reserve closed in. Fighter-bombers moved to forward fields. Everything indicated readiness for an offensive. From the Egyptian

[40] Mullik (fn. 36), 345.
[41] Neville Maxwell, *India's China War* (London: Jonathan Cape 1970), 300.
[42] Zeev Schiff, *October Earthquake—Yom Kippur 1973* (Tel-Aviv: University Publishing Projects 1974), 27-28; Handel, (fn. 19), 18-19.

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front, similar reports arrived: artillery was pouring into the front; forces usually kept around Cairo moved east; close to the Canal, the Egyptian Army was clearly shifting bridging equipment up to the water's edge. A large number of tanks were stationed alongside the crossing areas prepared during recent years. There was no doubt that technically and operationally the Arab armies were ready to strike, and some of the signals, such as those about the bridging equipment, were of a type never received before.[43] As the Agranat Committee stated: "On the eve of war, a vast body of data had accumulated indicating an unprecedented deployment of enemy troops along the front."[44] Nevertheless, on the eve of war, the accumulated data did not affect the strategic thinking of Israel's decision makers.

In each of the above cases, tactical indicators of the impending attack did exist—but they simply did not bear out the strategic assumptions about the intent and capability behind them. Hitler never issued an ultimatum; Japan and Communist China were willing to undertake potentially suicidal missions; China invaded the entire border area with India despite its internal difficulties; and the Arabs felt themselves capable of launching an attack on Israel even without sufficient air power. In none of these cases did the flow of tactical information from the field result in a reassessment of strategic assumptions; when discrepancies existed between tactical indicators and strategic assumptions, the latter prevailed.

In their determination to give priority to the strategic assumptions of possibilities over the tactical assumptions of actualities, the decision makers of the state about to be attacked attributed their own line of reasoning to the adversary. Overlooking the possibility that the enemy might not follow a similar train of thought, they failed to cross the conceptual boundaries that separated them from their opponent.[45]

Oblivious to the asymmetry of motivation that existed between the parties to the conflict, they remained aloof to the possibility that their opponent, while militarily weaker, might be willing to accept greater costs and risks than expected.[46]

[43] Schiff (fn. 42), 17-28.

[44] *The Agranat Report* (fn. 20), 19-20.

[45] See, in this connection, Benno Wasserman, "The Failure of Intelligence Prediction," *Political Studies*, VIII (June 1960), 167; Yehezkel Dror, *Crazy States: A Counterconventional Strategic Problem* (Lexington, Mass.: D. H. Heath 1971), 14-18.

[46] On the eve of Pearl Harbor, for example, American policy makers, who thought chiefly in terms of the military capabilities of Japan vis-à-vis the United States, failed to perceive the Japanese predisposition in crucial moments to make decisions involving extremely great risks. Hosoya (fn. 14), 113. Likewise, in assessing the likelihood of Chinese intervention in Korea, Washington ignored the fact that the Chinese Com-

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One central and specific conclusion emerges from this analysis: that there is a need to evaluate tactical field information on its own, without regarding such data only in the light of *a priori* strategic assumptions. Thus, when tactical actualities are at variance with strategic possibilities, the former should be given increased weight in the decision-making processes.

And while a surprise attack by definition is one that is truly understood only in retrospect, it is hoped that this dissection of the problem and the identification of certain recurrent interacting variables may help to prevent situations which make such post-mortems necessary.[47]

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munists were more highly motivated to prevent American troops from occupying North Korea than U.S. leaders were to carry out the occupation against Chinese opposition. George and Smoke (fn. 11), 213, 583. More recently, on the eve of the October War, Israeli policy makers underestimated Arab frustration as a stimulant in risk taking. Yehoshafat Harkabi, *Palestinians and Israel* (Jerusalem: Keter Publishing House 1974), 222-23.

[47] For more general suggestions and "prescriptions" for coping with surprise in the future, see, for example: Robert Jervis, "Hypotheses on Misperception," *World Politics*, xx (April 1968), 462-66; Wohlstetter (fn. 1), 400-401; and Wasserman (fn. 45), 168.

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CORPORATE PREFERENCES AND PUBLIC POLICIES:

Foreign Aid Sanctions and Investment Protection

By CHARLES H. LIPSON*

THE relationship between corporate preferences and public policy is frequently debated but seldom researched. Nevertheless, radical analysts of American foreign policy consider it crucial, both theoretically and historically. They posit a causal relationship between the expansion of international trade and investment and the efforts of advanced capitalist states to protect and extend those economic networks. Often termed the "Open Door policy" in its American version, this focus informs radical scholarship as diverse as that of Harry Magdoff and William Appleman Williams. It also differentiates radical criticism from its more conventional counterpart, which tends to emphasize the "confusion and uncertainty over the ends and means of [U.S.] foreign policy,"[1] rather than its self-interested coherence.

Unfortunately, the theoretical power of radical analysis has for many political scientists been obscured by its presentation. Radical arguments have frequently relied upon a number of implicit yet controversial assumptions. Too often the conclusions have lacked the precision required to test specific propositions empirically. As a result, skeptical readers have tended to dismiss radical analysis quickly, often contemptuously, turning a potential debate into a standoff between mutually insulated polemics. In this article, I hope to avoid that confusion and to demonstrate the value of a radical critique by recasting some fundamental concepts in the form of explicit and testable hypotheses.

Radical analysts assume that basic U.S. Government policies to protect direct foreign investments generally conform to the predominant preferences of the most vitally affected large corporations. We can define that subset of corporations as multinational firms large enough to be listed as one of *Fortune*'s "500 largest industrial firms" or "50 largest commercial banks." Using that definition, the radical assumption can be treated as a hypothesis to be tested.

* I wish to thank James Kurth, Joseph Nye, Arthur MacEwan, and Bruce Andrews for their helpful criticism. An earlier version of this paper was delivered at the 1975 Convention of the International Studies Association, Washington, D.C.

[1] Robert W. Tucker, *The Radical Left and American Foreign Policy* (Baltimore: Johns Hopkins Press 1971), 21.

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A corollary hypothesis is that changes in government investment protection policies reflect changes by the affected corporations in the strategy they predominantly prefer. Another corollary hypothesis holds that substantial disunity among large multinational firms results in government policies that are either ambiguous, contradictory, or modest in scope.

Though the term "predominant strategy" requires further specification in some cases, these hypotheses clearly posit structural political-economic relationships in a specific issue-area. They are clear, falsifiable inferences, based on radical analyses, that can be evaluated empirically.

These hypotheses will be tested in a specific policy area: those aspects of foreign aid policy that deal explicitly with investment protection. While that limitation closes the universe of data, it also qualifies our ability to generalize inferences based on those data.[2] In particular, one would expect the influence of large corporations to be more limited when issues are more salient and competing political groups more active and numerous.

While one cannot simply generalize from foreign aid to foreign policy, aid does constitute an important policy area. It has long been a central feature of U.S. relations with underdeveloped countries and has attracted substantial domestic attention, engaging a varied array of governmental and nongovernmental actors.

During the past decade Congress has modified some aid legislation in explicit, but contradictory, attempts to protect U.S.-based multinational corporations from confiscation. The modifications in question are the Hickenlooper amendment (passed in 1962, expanded in 1963 and 1964), the Gonzalez amendments (1972), and the effective repeal of the Hickenlooper amendment in 1973.

The Hickenlooper amendment is especially important because of its strong language, its clear strategy, and its recurring role in investment disputes with underdeveloped countries.[3] The law created a statutory link between disbursement of aid and repayment for expropriations. Unless a foreign government promptly compensated an expropriated U.S. company, or initiated "appropriate steps" to do so, the amendment required *automatic suspension* of bilateral aid. Further-

[2] The limitation is a vital one. Though the hypotheses are developed from concepts fundamental to radical analysis, they treat only one of its aspects. Certainly few radical analysts would argue that U.S. military interventions, for example, are explicable in terms of such hypotheses.

[3] Its importance is disproportionate to its formal usage, which occurred only once, in Ceylon (1963). But frequently its sanctions have been contemplated or have become an important policy issue, for instance in Brazil (1962), Honduras (1962), Argentina (1964), and in Peru, Ecuador, and Bolivia in the late 1960's.

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more, "expropriation" was defined broadly. The 1962 law, for example, specifically mentioned "discriminatory treatment" as well as confiscation.[4] In the following year, restrictive operating conditions and discriminatory taxes were also included. At the same time, the amendment's sanctions were extended to incorporate bilateral aid other than the Foreign Assistance Act, such as food shipments made under Public Law 480.[5]

These sanctions were not only tough; they were legally mandatory. Bilateral aid had to be suspended to any country that expropriated U.S. citizens' property without prompt, full, convertible compensation. This mandatory aspect was weakened somewhat because the President was permitted to determine whether an expropriation had occurred, according to the amendment's definition. But because the amendment defined "expropriation" quite expansively, the President's discretion was sharply limited. Subsequent debate in Congress and in business forums concentrated on the usefulness of this automatic deterrent provision. That provision was later used as a model for the Gonzalez amendments, which prohibited U.S. approval of multilateral loans to states where U.S. investors had been expropriated.[6]

Since both the Hickenlooper and the Gonzalez amendments depended upon their inflexibility, a revision permitting a presidential waiver of their sanctions would effectively repeal them. In fact, the 1973 effort to delete the Hickenlooper amendment was finally transformed into a successful attempt to add such a waiver. Though the Gonzalez amendments were not formally affected, it was widely understood that the new discretionary policy contradicted and superseded the "automatic sanctions" policy embodied in the multilateral amendments.

In practice, however, even the earlier policy had not been automatic. Most notably, President Nixon did not formally invoke the Hickenlooper amendment when Peru confiscated an Exxon subsidiary. Other, less prominent examples can be cited for Presidents Kennedy and Johnson.

Two primary patterns emerge from this overview. One is that presidential nonapplication of the Hickenlooper amendment contradicted the congressionally approved policy of "automatic sanctions." The other is that legislative policy itself changed sequentially, first ordering mandatory action and then allowing a presidential waiver.

[4] *Foreign Assistance Act of 1962, Statutes at Large* 76, sec. 301 (d)(3), 260-61 (1962).
[5] *Foreign Assistance Act of 1963, Statutes at Large* 77, secs. 301 (e)(2)—(e)(3), 386-87 (1963).
[6] *Asian Development Bank Act Amendments, Statutes at Large* 86, 57 (1972); *Inter-American Development Bank Act Amendments, Statutes at Large* 86, 59 (1972); *International Development Association Act Amendments, Statutes at Large* 86, 60 (1972).

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Our hypothesis is that these varied investment protection policies, including the patterns of legislative change and executive implementation, have conformed to predominant corporate preferences. That proposition could be falsified if one found that large multinational firms predominantly opposed (1) the passage of the Hickenlooper amendment, (2) the passage of the Gonzalez amendments, (3) the effective repeal of the Hickenlooper amendment, or (4) the specific cases of application and nonapplication of the Hickenlooper amendment by the executive. After the history of the policy has been analyzed and the radical hypothesis tested, the hypothesis can be compared with the most salient alternatives: propositions derived from bureaucratic and pluralist models.

The Background of the Hickenlooper Amendment

The stringent text of the original Hickenlooper amendment was written in early 1962, a time of widespread corporate support for tough anti-expropriation measures. That attitude arose fundamentally as a reaction to Cuban communism and the indirect challenges it posed to United States investments in Latin America. The loss of corporate investments as well as a cold-war ally had a multifaceted effect on the environment in which the Hickenlooper amendment was passed. It heightened the importance of the expropriation issue for international businessmen and most congressmen. Throughout the 1950's both groups had generally assumed that foreign investments were politically safe.[7] The confiscations in Cuba undermined that assumption and helped to shape a new framework for the perception of investment challenges. Many investors and congressmen began to fear that eminent domain seizures might escalate drastically, as they had in Cuba.[8] There was general agreement that failure to insist on full compensation would encourage a domino effect. Viewed in these terms, even minor expropriations might ultimately sabotage a principal objective of U.S. aid: the encouragement of development through direct foreign investment.[9]

Because expropriations were identified as an integral aspect of global

[7] However, in 1959 the Brazilian State of Rio Grande do Sul had expropriated the American and Foreign Power Company. Compensation talks were fruitless, and the dispute festered into the early 1960's.

[8] Many academic writers shared this concern; for instance, Frank Tannenbaum, *Ten Keys to Latin America* (New York: Knopf 1962), 234-35. Representative Henry Gonzalez has said that his anti-expropriation amendments were inspired by Tannenbaum's work.

[9] Jacob J. Kaplan, *The Challenge of Foreign Aid* (New York: Praeger 1967), 181, 303-10.

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communism, they also appeared to threaten the policy makers' strategic objectives. The Cuban expropriations thus reinforced the conventional cold-war view that political alliance was linked to trade and investment security. In this respect their context was quite different from that of the Mexican oil seizures twenty-five years earlier. Those confiscations had been linked only indirectly to the fascist military threat. In fact, that threat posed a basic choice between vigorous action to protect particular U.S. investments in Mexico and the more serious need to conserve resources and build military alliances.

Not only did the Cuban expropriations strengthen the linkage between economic and security issues, it also focused attention on the State Department's willingness to seek economic milieu goals. The expropriations simply reinforced traditional corporate mistrust of American diplomacy. According to many business leaders, the State Department was too tepid in their defense, too solicitous of other countries' problems, and insufficiently concerned with economic issues. Though mistrust was especially pronounced under the Kennedy Administration, it had been quite widespread under Eisenhower as well.[10]

Congressmen immediately expressed their outrage over nascent Cuban communism. After debates in which the recent expropriations there figured prominently,[11] an amendment that can be considered a forerunner of the Hickenlooper amendment was attached to the Mutual Security Act of 1959. Named after Senators Olin Johnson and Styles Bridges, it provided for the immediate suspension of aid to any country that expropriated the property of U.S. citizens and then "failed within six months . . . to take steps determined by the President to be appropriate to discharge its obligations under international law. . . ."[12] The Johnson-Bridges debates centered on presidential discretion, and not on the wisdom of imposing formal economic sanctions. The Senate refused to pass the bill unless the President was permitted to waive its provisions "in the national interest." Even though the final Johnson-Bridges amendment did not carry Hickenlooper's mandatory language, it indicated that Congress meant to deter expropriations by threatening to suspend foreign aid.

Certainly the boldest new use of aid during this period was the Alliance for Progress. Despite the defensive character of the early Alliance, its scope and novel strategy worried the heads of many U.S.-

[10] Herbert Feis, *Foreign Aid and Foreign Policy* (New York: St. Martin's Press 1964), 132.

[11] *Congressional Record*, 86th Cong., 1st sess., 1959, vol. 105, pp. 12583-587, 12956-960.

[12] *Mutual Security Act of 1959, Statutes at Large* 73, sec. 401 (a), 252.

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based multinational businesses. They had not been explicitly included in its planning and were dissatisfied with the Punta del Este charter. Concerned primarily with investment safety, they saw only vague, inconsequential support in that document.[13] Neither the charter nor the conference discussions had addressed their central concerns: stopping expropriation, abolishing restrictions on profit remittances, and expanding the coverage of investment guaranty insurance. Admittedly, the new Administration's plan depended upon a substantial influx of U.S. capital. But, according to many businessmen, it ignored the reality of net disinvestment, caused mainly by unacceptable political risks to foreign investments. Jerome Levinson and Juan de Onís have concluded that "what [businessmen] wanted most at the time was security for foreign investments, and the charter offered no specific guarantees against expropriation."[14]

Passing the Amendment

Corporate opinion affected the passage of the Hickenlooper amendment in several direct ways:

1. the timing of the amendment;
2. the specific language employed;

[13] Jerome Levinson and Juan de Onís, *The Alliance That Lost Its Way* (Chicago: Quadrangle Books 1970), 71-73; Edward S. Mason, *Foreign Aid and Foreign Policy* (New York: Harper and Row 1964), 88-90.

[14] Levinson and de Onís (fn. 13), 72. Corporate dissatisfaction with the early Alliance suggests that corporate preferences are not related "mechanically" to the U.S. Government's investment protection policy. Rather, we argue that the two are generally consistent. If one found repeated or long-term inconsistencies for policy instruments which were directly related to investment protection issues, this aspect of a radical argument would be falsified.

It might be argued that, in spite of its brevity, early Alliance policy demonstrated such an inconsistency. Clearly, multinational corporate interests were to some extent contradictory during that period. While there was unanimous support for the objective of insulating communism, there was also widespread corporate agreement that the common objective should be secured by a strategy that unambiguously preserved property rights. Thus, even though the Alliance's aspirations were compatible with the extension of investment and trade, there was substantial corporate opposition to a strategy that relied heavily on social reform. After all, a strategy that entailed redistribution was a risky one: it could undermine the ideological foundations of private property, as well as redefining the "legitimate" scope of state economic power.

It is particularly important to note that the Kennedy Administration could not continue to ignore investment protection issues when formulating Alliance policy. Multinational firms could act collectively, employing multiple channels to affect government policy. The Hickenlooper amendment, for example, was a clear message about the priority of investment protection. Directed at Latin American governments, it was a stick; at the Kennedy Administration, a pointer. Probably even more important was the cumulative effect of individual corporate decisions not to invest (or reinvest) in Latin America. Since the Alliance was admittedly dependent upon an influx of U.S. capital, continued "capital flight" effectively attracted the attention of decision makers.

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3. the scope and central issues of the debate; and
4. the legislative outcome.

In the preceding section we discussed heightened concern over the political security of foreign direct investments. Yet, when the Foreign Assistance Act of 1961 superseded the Mutual Security Act, the Johnson-Bridges amendment was allowed to lapse.

Corporate interest in a new amendment was rekindled by two expropriation controversies that climaxed in 1962. In Brazil, where the government's dispute with American and Foreign Power remained unresolved, a federal state seized ITT's phone company. Hoping to defuse the controversy before there was any congressional reaction, the Kennedy Administration unsuccessfully attempted to secure compensation for the companies.[15] At about the same time, Ceylon's Government ordered Texaco, Esso Standard Eastern, Standard Oil of California, and Shell to begin handling lower-priced Soviet products. When the companies unanimously refused, their gas stations were nationalized.[16]

Though the investments in Ceylon were trivial, the issues were not. The Soviet Union's role was especially significant, since it had recently become the world's second largest oil producer and was an increasingly important crude-oil exporter. The U.S.S.R.'s low prices and barter arrangements particularly frightened the major international oil companies, whose main source of profits was their oligopoly control of crude-oil sales.[17] Soviet oil exports and transfers of technology left the companies' enormous equity exposed to nationalist threats. The companies clearly recognized the dual Soviet-nationalist challenge to their industry's oligopoly structure.[18]

Furthermore, the major international oil companies agreed with most other large multinational firms that easy confiscations anywhere would encourage nationalists everywhere. The nationalist challenge

[15] *Ibid.*, 144. AID acknowledged that the expropriations had seriously undermined the "climate" for foreign investment in Brazil. According to a 1962 AID report, the outlook for foreign investment there was "not encouraging." U.S., Congress, House, Committee on Foreign Affairs, *Hearings on the Foreign Assistance Act of 1962*, 87th Cong., 2d sess., pt. III, p. 512.

[16] A similar, but much more extensive dispute had occurred in Cuba three years earlier. International oil companies had refused the Cuban Government's directive to refine Soviet crude; as a result they were among the first foreign companies to be expropriated.

[17] Mira Wilkins, *The Maturing of Multinational Enterprise: American Business Abroad from 1914 to 1970* (Cambridge: Harvard University Press 1974), 371-72.

[18] The companies' economic apprehension was obscured by appeals to anti-Communist values. See, for example, the speech by Senator A. S. Monroney, American Petroleum Institute, *1961 Proceedings*, XLI (New York: American Petroleum Institute 1961), sec. I, p. 12.

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confronted a variety of industries, particularly those with large investments in raw materials, agriculture, and telecommunications. Possibly because these sectors were considered basic for future industrialization, foreign predominance raised sensitive issues of national sovereignty. In addition, the once-distinctive advantages possessed by multinational companies in these sectors had eroded substantially. In many cases (for instance, oil in Ceylon, Cuba, Peru, and Argentina; telephones and electricity in Brazil), neither scale nor technological complexity presented insurmountable barriers to nationalization.

In response to the threat of nationalization, corporations could pursue a variety of strategies. As Theodore Moran has shown, these include minimizing the equity exposed to nationalization, expanding the number of political allies (by creating economic interests congruent with those of the firm), and attempting to convince politically influential actors that the corporation confers unique, continuing benefits.[19]

A complementary strategy was to raise the potential cost of nationalization by threatening recourse to official U.S. sanctions. That strategy implied the denial of the tangible resources and symbolic support of American aid.

A corporate campaign to legislate foreign aid sanctions began in 1962 with widespread backing. The most active lobbyists were companies whose large fixed investments were politically sensitive and whose production techniques were no longer mystifying to host-country governments. Several interviewees have cited initiatives in 1962 and 1963 by ITT, Texaco, Standard Oil (N.J.), United Fruit, and several copper companies.[20] Manufacturing firms were not actively involved.

[19] Moran, "Transnational Strategies of Protection and Defense by Multinational Corporations: Spreading the Risk and Raising the Cost for Nationalization in Natural Resources," *International Organization*, XXVII (Spring 1973), 273-87.

[20] Unfortunately, most respondents would discuss lobbying efforts and interdepartmental disputes only if they were promised anonymity. Participants in these interviews were members of the State Department, Treasury, AID, the Council on International Economic Policy, congressional committees (members and staff), presidential commissions on foreign aid, and several corporations and business organizations.

One important exception to this norm of confidentiality was George Pavlik, Senator Hickenlooper's aide, with whom a telephone interview was conducted. Asked which corporations had actively worked for the Hickenlooper amendment, he cited the firms listed in the text, all of which were confirmed in confidential interviews.

To some extent the serious scholarly problems presented by confidential interviews can be mitigated by carefully searching the public record. For example, Standard Oil (N.J.) took the most unusual step of praising the Hickenlooper amendment in its *1962 Annual Report*. Harold Geneen's role is discussed by the *New York Times*, May 11, 1962, p. 51, and by Anthony Sampson, *The Sovereign State of ITT* (New York: Stein and Day 1973), 262. The National Foreign Trade Council openly attacked any social reforms, including agrarian reforms, which did not include "prompt, adequate, and

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The importance of the legislation was further underscored by the personal involvement of ITT's Harold Geneen and several high-level executives of oil companies. Related business organizations, like the American Petroleum Institute, the National Foreign Trade Council, and the U.S. Chamber of Commerce were also prominent advocates. After numerous confidential interviews, this writer has not discovered any corporations or business organizations which opposed the Hickenlooper amendment, actively or tacitly, in 1962 or 1963. Respondents frequently mentioned the amendment's extensive corporate support.

Senator Bourke Hickenlooper of Iowa was the obvious choice to sponsor legislation to protect investments. An effective legislator, he was the Foreign Relations Committee's ranking Republican and one of a small nucleus of active workers. Hickenlooper was not doctrinally opposed to foreign assistance but was sensitive to corporate preferences about its proper use. In particular, he shared the concern about expropriations and capital flight from Latin America.[21]

Hickenlooper's efforts were widely approved by his colleagues, including liberal Senate leaders like Hubert Humphrey and Mike Mansfield.[22] The *New York Times* aptly described the mood of most legislators when it stated that "congressional leaders probably have not been so concerned about the treatment of United States private property abroad since . . . the Nineteen Thirties. . . ."[23]

Though the President and the State Department shared these concerns, they opposed mandatory legislation because it limited their foreign policy discretion and bureaucratic flexibility. In their attempts to prevent these restrictions, they relied on sympathetic members of the Foreign Relations Committee, especially Senators Fulbright and Sparkman, to effect some compromises. Aid would be allowed to continue if the President determined that a regime had taken "appropriate steps to discharge its obligations as required by international law" within six months. Limits were established on the bill's retroactivity, and the

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effective compensation." The N.F.T.C. Convention Recommendations applauded the Hickenlooper amendment in 1962 and its extension the following year. See National Foreign Trade Council, *Report of the Forty-Ninth National Foreign Trade Convention, 1962* (New York: N.F.T.C. 1963), xx-xxii; N.F.T.C., *Report of the Fiftieth National Foreign Trade Convention, 1963* (New York: N.F.T.C. 1964), xliv. Kennecott's role in the amendment's 1963 extension is suggested in the *Congressional Record*, 88th Cong., 1st sess., 1963, vol. 109, p. 21762.

[21] Telephone interview with John Newhouse, September 1974.

[22] *Congressional Record*, 88th Cong., 1st sess., 1963, vol. 109, p. 2136; *Congressional Record*, 93rd Cong., 1st sess., 1973, vol. 119, p. 26189.

[23] *New York Times*, May 13, 1962, sec. III, p. 1.

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President retained authority to appraise the value of expropriated property. Nevertheless, Senator Hickenlooper passed a tough bill. He and his supporters agreed that mandatory language was essential if the amendment was to be taken seriously, in the Administration and abroad. They demanded and got that language. The overall result conformed to corporate preferences.[24]

Did the executive branch strongly oppose these preferences? We know that concern about the amendment reached the presidential level. In response to a press conference inquiry, Kennedy went on record as opposing mandatory sanctions.[25] His office files reveal moderate attention to the subject, including at least 15 references in various summaries of pending legislation.[26] But prominent State Department officials have privately acknowledged that the executive branch did not actively intervene to prevent the Hickenlooper amendment's passage. Said one well-informed official, "Our position was clear and we carried through, but we didn't really apply pressure. We more or less had to live with it."

The Kennedy Administration's weak opposition belied its verbal support for structural economic reforms in underdeveloped countries. The message of Punta del Este had been that the United States would support such reforms financially and politically. Yet, when faced with a measure that would undermine redistributive reforms by demanding full compensation, the Administration offered only modest opposition.[27]

The U.S. attitude toward structural reforms was tested soon after the passage of the Hickenlooper amendment. In 1962 Honduras passed an important land reform measure allowing redistribution of uncultivated United Fruit property. At first the U.S. Embassy was noncommittal. The company, however, responded vigorously, moving unilaterally to curtail Honduras' major export by ceasing to plant a disease-resistant banana strain. At the same time, it activated local organizations that

[24] The same corporate and legislative alignments produced a Hickenlooper-style amendment to the 1962 Sugar Act, denying expropriating nations a U.S. sugar quota. *Sugar Act Amendments of 1962, Statutes at Large* 76, sec. 15, p. 166.

[25] U.S., President, *Public Papers of the Presidents of the United States: John F. Kennedy, 1962* (Washington: Government Printing Office 1963), March 7, 1962, p. 203.

[26] The President's Office Files, Legislative File, 1962-1963, in the John F. Kennedy Library, Waltham, Mass., show, in 1962, 13 references to the Hickenlooper amendment, two to the Sugar amendment; in 1963, only one reference to the Hickenlooper amendment.

[27] The State Department clearly recognized the amendment's inconsistency with redistributive reform. See U.S., Congress, Senate, Committee on Foreign Relations, *Foreign Assistance Act of 1962: Hearings on S. 2996* [hereafter referred to as *1962 Senate Hearings*], 87th Cong., 2d sess., p. 558.

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were apprehensive about economic reforms, principally the Agricultural Cattlemen's Association, the Honduran Chamber of Commerce, and the Association of Industrialists.[28] Still, the company wanted diplomatic assistance, including the threat to stop foreign aid if the Hondurans proceeded. The Hickenlooper amendment's provisions were explicit, no corporations or legislators opposed their promulgation, and several Senators offered active support.[29] Under these pressures, the Embassy informed Honduras of the amendment and its serious implications. Because these actions by United Fruit and the U.S. Government were simultaneous and mutually reinforcing, it is exceedingly difficult to distinguish their causal effects. It is more important to observe that the threat of Hickenlooper amendment sanctions could complement autonomous corporate efforts to protect foreign investments. The product of these complementary efforts was a causally overdetermined one: Honduran President Morales reversed his previous stand and agreed to substantially amend the agrarian reform law. Later he wrote to United Fruit President Thomas Sunderland that the company could safely expand production and need not fear expropriation or confiscatory taxes—a promise kept by subsequent Honduran governments as well.

The events in Honduras demonstrated not only the policy significance of the Hickenlooper amendment, but also its inconsistency with widely publicized Alliance goals like land reform. Even so, when efforts were made to strengthen the amendment in 1963, the Administration offered less opposition than it had the year before.

The amendment's supporters wanted to extend its sanctions and broaden its definition of expropriation. The latter change was instigated by several major oil firms whose contracts in Argentina were disputed by the new President, Arturo Illía.[30] When the companies broached

[28] Confidential interviews, confirmed by Theodore S. Brewer, "The Hickenlooper Amendment and Congressional-Executive Relations in Foreign Aid Policy," B.A. thesis (Amherst College 1968), 59-66. As evidence of United Fruit's successful efforts at building this transnational coalition, Brewer cites interviews with now-retired company officials (named in his paper). See also William S. Stokes, "Honduras: Problems and Prospects," *Current History*, L (January 1966), 23-24, which stresses the political effectiveness of United Fruit's reduced production.

[29] *Congressional Record*, 87th Cong., 2d sess., 1962, vol. 108, pp. 21615-21. At the same time, the Senate Appropriations Committee issued a report urging strict interpretation of the Hickenlooper amendment. See U.S., Senate, Appropriations Committee, *Foreign Aid and Related Agencies Appropriations Bill, 1963: Report to Accompany H.R. 13175*, 87th Cong., 2d sess., 1962, S. Rept. 2177, pp. 22-23.

[30] Exploration contracts were held by Standard Oil (N.J.), Union, Continental, Marathon, and Shell; development contracts by Pan American, Tennessee, Astra and Cadipsa, and Cities Service. Abram Chayes, Thomas Ehrlich, and Andreas Lowenfeld, *International Legal Process* (Boston: Little, Brown 1969), II, 827.

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the matter of diplomatic support, State Department officials indicated that the problem was not covered by the Hickenlooper amendment, as company officials believed. Such counsel reinforced the latter's mistrust of the executive and substantiated their anxieties about investment security, the dual concerns that had animated their earlier legislative efforts. Some of the companies contacted Senator Hickenlooper, who was equally distressed. Results were swift. Only ten days after Illía's inaugural speech, the Foreign Relations Committee redefined "expropriation" to include contract nullification.[31]

Opposition from the Administration was feeble and ineffective. During the Senate hearings, Secretary of State Rusk made a major, probably tactical, concession: "Our experience thus far has meant that [the Hickenlooper] amendment has been a good thing."[32] The best evidence of the Administration's weak efforts is a memorandum from AID Administrator David Bell to the President: "We do not expect to fight this amendment on the floor, and are working with Hickenlooper to try to find the best solution. . . . We have acquiesced in the Hickenlooper amendment. . . . We hope we can draw the line against further restrictive amendments offered from the floor."[33]

Not only were the Administration's efforts weak, their context was remarkably narrow. The State Department acknowledged support for Hickenlooper's policy principles and ratified them as traditional U.S. goals: "The United States has never accepted any principle other than fair compensation for expropriated property. We continue to adhere firmly to this view, not only because of its moral propriety . . . but because we recognize the necessity of encouraging private capital to invest in the developing countries."[34] Only in its forceful instructions to the Executive did the Hickenlooper amendment represent a variation from traditional U.S. investment protection policies.

The real novelty was not in the amendment, but in the proposed Alliance reforms. The amendment simply attached formal, unilateral sanctions to the traditional United States assertion that international law requires prompt, full, convertible compensation for expropriated foreign investment. Yet the State Department never faced the tension be-

[31] U.S., Congress, Senate, Committee on Foreign Relations, *Foreign Assistance Act of 1963: Report on H.R. 7885*, 88th Cong., 1st sess., 1963, S. Rept. 588, p. 29.

[32] U.S., Congress, Senate, Committee on Foreign Relations, *Foreign Assistance Act of 1963: Hearings on S. 1276* [hereafter referred to as *1963 Senate Hearings*], 88th Cong., 1st sess., 1963, p. 30.

[33] Memorandum [hereafter referred to as "Bell Memorandum"], November 2, 1963, p. 2 (President's Office Files, Departments and Agencies, AID, 1963, John F. Kennedy Library).

[34] *1962 Senate Hearings* (fn. 27), 557.

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tween that policy and the much-heralded Alliance strategy of social reform. While reform does not necessarily imply expropriation, the U.S. effort to restate and enforce anti-expropriation norms seriously limited the scope of "legitimate" reform. For example, in most underdeveloped countries, far-reaching agrarian reform would be impossible if full compensation were required. Moreover, even if such compensation were feasible, it would tend to offset any broader policy of redistributing wealth. Because there were relatively few major U.S. landowners in Latin America (outside Central America and the Caribbean), the Hickenlooper amendment's standards of compensation seldom affected agrarian reform directly. However, the amendment did reinforce the general principle of full compensation by insisting on its ethical validity and by subordinating economic reform to its requirements.

In opposing the Hickenlooper amendment, the State Department emphasized its support for that principle. Its primary argument was that existing diplomatic channels could best insure such compensation, improve investment security, and prevent future expropriations. In one sense, the amendment's supporters agreed on the importance of existing channels. Their central objectives were the content and priorities of diplomatic policy. But, for reasons we have already discussed, multinational companies could not accept Administration assurances that their interests would be protected vigorously. Such assurances were undermined still further by the State Department's other argument against the amendment—that diplomatic flexibility best served the "national interest" by allowing the "balancing of many factors."[35] Though deliberately ambiguous, the statement seemed to imply that other policy goals might intrude upon efforts to deter expropriation. Still, the Department's most prominent argument was that it could protect corporate interests most effectively if it were not forced to support every intransigent company or every minor claim.

The policy debate was thus a tactical one, bounded by the consensus that the protection of corporate investments was a fundamental and long-standing goal of U.S. foreign policy. The Administration's basic agreement with corporate objectives, as well as its tactical disagreement, is evident in the previously cited Bell memorandum to President Kennedy: "We seek the same objectives Hickenlooper does. But formal amendments of this type may arouse nationalistic feelings and exacerbate rather than ease the problems at issue (this is plainly happen-

[35] *Ibid.*, 558.

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ing now in Argentina). Working quietly but forcefully behind the scenes is a far better way to bring about the results we are after."[36]

Applying the Hickenlooper Amendment[37]

Because the amendment posed such a stern threat to underdeveloped countries, it figured prominently in several investment disputes. Like its legislative history, its diplomatic history raises important questions about the relationship between corporate preferences and public policy. The radical hypothesis advanced earlier suggests that the amendment's use would conform to predominant corporate preferences. To evaluate that hypothesis, we shall examine those major investment disputes in which the employment of the Hickenlooper amendment was an issue. If the radical hypothesis is not to be rejected, then it must accurately predict the amendment's use without requiring the introduction of other policy considerations.

As we have already stated, investment disputes in Brazil, Honduras, Ceylon, and Argentina were important factors in the amendment's passage and subsequent modification. In Honduras the only interested U.S. corporation was United Fruit. Though the State Department was reluctant, it finally did inform the Honduran Government of the amendment and its significance. As we have noted, United Fruit's objectives had been achieved before the date when formal sanctions were required. The more important disputes in Brazil and Argentina were also resolved (or were the subjects of substantive negotiations) before the amendment's sanctions had to be applied. Both the President and Attorney General Robert Kennedy gave personal attention to the Brazilian conflict, helping to settle ITT's claim, and starting talks about American and Foreign Power's losses. According to David Bell's 1963 testimony, "In the Brazil case, thus far appropriate steps, satisfactory to the private firms concerned, have been taken."[38] The Johnson Administration's decision not to invoke sanctions in Argentina did not contravene the oil companies' preferences there. Rather than pressing

[36] "Bell Memorandum" (fn. 33), 1-2. In a prescient analysis of the Peru-IPC dispute, the State Department also argued that a company's behavior could provoke expropriation and prevent settlement. Even if other corporations considered the proposed settlement reasonable, they could not force the corporation to accept it and, hence, could not prevent automatic sanctions which might damage their own firms. In 1962 this argument was abstract and ineffective.

[37] The 1963 additions completed the amendment's foreign aid sanctions. A 1964 addition, the Sabbatino amendment, was directed solely at the U.S. courts' refusal to adjudicate certain foreign investment disputes. Sabbatino is the subject of considerable legal scholarship.

[38] *1963 Senate Hearings* (fn. 32), 273.

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for sanctions, the companies wanted and got high-level attention to the conflict, which was slowly resolved to their satisfaction. In fact, formal sanctions were applied only once, in Ceylon, where the oil dispute had continued to fester. Was that action approved by most corporations? The best evidence is a quite striking memorandum from Secretary Rusk to President Kennedy, which has since been declassified: "American businessmen and Congressmen have widely applauded our action [in Ceylon]; failure to suspend under the circumstances would have had adverse repercussions on the Hill and elsewhere. . . ."[39]

Except for the Ceylon dispute, most investment quarrels and their *ad hoc* solutions appear to have concerned only those few corporations that had been expropriated. For the others, issues of investment protection lacked both urgency and focus in the mid-sixties. The calm was broken in 1968 and early 1969, when Peru expropriated the International Petroleum Company, a subsidiary of Standard Oil (N.J.). The prospect of formal sanctions quickly became the most important aspect of the dispute, which touched all phases of U.S.-Peruvian relations.[40] The U.S. quietly suspended aid without formally invoking the Hickenlooper amendment, despite the absence of fruitful negotiations between the company and Peru.

Did the Nixon Administration's refusal to apply the amendment in this important dispute run counter to corporate preferences, as is sometimes suggested? First one must note that the issue separated Standard Oil from most other U.S. firms in Peru. Led by Marcona Corporation, almost all U.S. businesses feared that their investments were endangered by an escalating intergovernmental dispute. They forcefully opposed sanctions.[41] On the other hand, Standard Oil initially urged the State Department to apply the Hickenlooper amendment, arguing that only a tough policy could deter future expropriations or insure compensation. The company, however, was internally divided on the policy issue. Some officials had concluded that formal sanctions would only strengthen nationalist hostility to foreign investment throughout Latin

[39] Memorandum for the President from Dean Rusk, Secretary of State, May 27, 1963, p. 1 (President's Office Files, Countries, Ceylon, 1963, John F. Kennedy Library).

[40] Though potential sanctions included both bilateral aid and the sugar quota, they were commonly grouped together as the "Hickenlooper amendment."

[41] In Peru, as in Honduras, the intergovernmental dispute precipitated a transnational coalition. U.S. corporations opposing use of the Hickenlooper amendment worked closely with allies in Peruvian banking and legal circles. For example, the meeting between U.S. Special Envoy John Irwin and President Velasco—the legal pretext for not applying the Hickenlooper amendment—was arranged jointly by a Peruvian lawyer and a U.S. businessman. See "Editor's Note" in Daniel A. Sharp, ed., *U.S. Foreign Policy and Peru* (Austin: University of Texas Press 1972), 285-87.

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America. As a result, they expected that compensation would become politically impossible in Peru, and confrontations elsewhere would become more likely. For reasons not yet clear, Standard Oil's position changed before the date for applying sanctions. According to a government official close to the negotiations, "Originally Standard was straightforward. They wanted Hickenlooper. But later on they neither urged it nor opposed it." Standard's final neutrality represented a substantial policy shift, and U.S. officials recognized it as such.[42] Our conclusion is that Washington's refusal to employ the Hickenlooper amendment conformed to the preferences of most corporations and did not conflict with those of Standard Oil.[43]

Other expropriation disputes in the late 1960's followed a similar pattern. According to State Department officials, Gulf did not seek application in Bolivia after the leftist government there seized some property.[44] In Ecuador, the Government seized ITT's phone company and numerous tuna boats, while simultaneously inviting U.S. companies to exploit its offshore oil. The oil firms, joined by most other U.S. investors there, successfully opposed the aggrieved companies' appeals for formal sanctions.

Confusion, Ferment, and More Sanctions

Separately, these solutions satisfied interested corporations. Cumulatively, they created doubts about basic U.S. policy. After the Peruvian episode, many corporations reconsidered the problem of protecting their investments and decided that formal, mandatory sanctions were self-defeating. Their use would pointedly raise issues of sovereignty, thereby reinforcing nationalism in the affected country and possibly elsewhere.[45] The potential leverage of foreign aid had been eroded by

[42] Two contributors to Sharp's book reached different conclusions. John Powelson claims that "even IPC has not insisted on the application of Hickenlooper." *Ibid.*, 147. Charles Goodsell maintains that the company *did* want the amendment invoked. *Ibid.*, 251-52. On the basis of confidential interviews, we would agree with both Powelson and Goodsell that there were important intracorporate divisions, but conclude that the company initially preferred the amendment's use and later changed positions.

[43] Later, ITT, Grace, and others were expropriated. Their demands for overt sanctions met overwhelming opposition from most U.S. corporations in Peru. U.S. policy remained unchanged, as does our conclusion.

[44] Gulf's chairman was once quoted as advocating use of the Hickenlooper amendment. *New York Times*, October 31, 1969, p. 63. However, according to interviewees in Congress and the Administration, Gulf did not seek to have the U.S. apply the amendment in Bolivia, and later opposed Hickenlooper-type laws.

[45] Nelson Rockefeller made this point when he testified that Hickenlooper sanctions in Peru would endanger Texaco in Ecuador, an exact reversal of the amendment's deterrent logic. U.S., Congress, Senate, Committee on Foreign Relations, *Hearings on the Rockefeller Report on Latin America*, 91st Cong., 1st sess., 1969, p. 29.

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reduced appropriations, and the problematical application of formal sanctions was more likely to confuse corporate negotiators than to threaten foreign officials.

The best evidence that corporate attitudes were changing is a survey taken in August 1970 by the Council of the Americas, whose members account for 90 per cent of U.S. investment in Latin America. Most companies considered expropriation a remote threat at that time, and 76 per cent thought that the Hickenlooper amendment had "outlived its usefulness."[46] Only extractive industries, whose large investments were immobile and especially sensitive politically, were equally divided about the amendment's usefulness.

If corporate opinion generally opposed the amendment in 1970, why was its substance retained and actually extended to multilateral aid two years later? This legislative behavior seems to cast doubt on the radical hypothesis and deserves serious examination.

Basically, corporate opposition to the Hickenlooper amendment arose because the amendment appeared to endanger investments rather than protect them. Though the form that revision should take was unclear, it was implicitly assumed that both its content and timing should enhance investment security. When Allende was elected a few months after the Council's survey, that assumption became critical. Under the new circumstances, any revision would appear to weaken U.S. anti-expropriation posture at a time when foreign investments were under attack. Not surprisingly, active support for revision collapsed completely, and the initiative shifted to the amendment's remaining supporters. Their success in passing the Gonzalez amendments is attributable to the neutralization of their corporate opponents and to their own special ability to affect multilateral aid policy.

Multilateral aid is administered by the Treasury, the Department which has most energetically supported a strong deterrent policy to protect investments. Particularly under Secretaries Connally and Shultz, Treasury wanted the government to state clearly that confiscations were intolerable and would be opposed by stringent sanctions. This posture was shared by members of the Banking and Currency Committee which handles multilateral authorizations in the House. The relevant subcommittee, chaired by Henry Gonzalez of Texas, had to draft new aid authorizations at the height of the Chilean expropriations; he demanded a tough policy.

[46] Robert H. Swansbrough, "The American Investor's View of Latin American Economic Nationalism," *Inter-American Economic Affairs*, XXVI (Winter 1972), Tables 5 and 7.

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The Administration's internal debate began in June 1971, when the National Security Council asked for an "urgent study on U.S. policy toward expropriation without compensation."[47] Treasury, of course, took a hard line. The other central actor, the State Department, defended the existing policy of "situational response" and opposed any public statement of policy. In the complex maneuvers that followed, Treasury's position was greatly enhanced by the Gonzalez subcommittee, which threatened to pass mandatory legislation if the President did not make a strong public statement. By October, the Treasury Department had won a compromise victory: when "significant" expropriations occurred, there would be the "presumption" of sanctions unless "reasonable steps were taken to provide adequate compensation."[48] It was a firm, clear, publicly stated policy, but not an automatic one. Though the State Department could not modify the decision, it did manage to delay its issuance. The postponement succeeded only in angering the Treasury and the subcommittee, which voted to add mandatory language to the multilateral authorizations. The presidential statement was finally made in January 1972, just two weeks before floor action. Its poor timing probably assisted passage of the mandatory amendments, instead of relieving pressure for them.

What role did corporate preferences play in the passage of the amendments? We have already noted that business opinion was divided about their utility. Even corporations which shared relatively similar expropriation dilemmas disagreed. Some, like Gulf, American Smelting, Standard Oil of California, Marcona, and Occidental, had concluded that mandatory sanctions were no longer useful. Manufacturing, financial, and service industries generally concurred. But ITT, Texaco, Grace, and others continued to favor virtually automatic sanctions, articulated in advance. According to the *Mexican-American Review*, published by the American Chamber of Commerce in Mexico, about two-thirds of the trustees of the Council of the Americas responding to a survey opposed the continuation of Hickenlooper-type sanctions.[49] Nevertheless, in August 1971, when Peter Peterson asked for

[47] U.S., President, National Security Council, Memorandum No. 131.

[48] Quote is from President Nixon's January "Statement Announcing United States Policy on Economic Assistance and Investment Security in Developing Nations," in U.S., President, *Public Papers of the Presidents of the United States: Richard M. Nixon, 1972* (Washington: Government Printing Office 1974), January 19, 1972, p. 33. For a knowledgeable analysis of the bureaucratic politics of the President's decision, see Jessica Pernitz Einhorn, *Expropriation Politics* (Lexington, Mass.: D. C. Heath 1974), esp. chap. 5.

[49] Nathan Haverstock, "End to Retaliatory Legislation Sought," *Mexican-American Review*, XLI (November 1973), 13.

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the Council's views on the Hickenlooper amendment, its president could state only that the membership was internally divided on that question.[50] The time was inappropriate and the divisions were deep enough to prevent the Council's support of revision.[51] On the other hand, interviewees have stressed the diligent efforts of hard-line corporations, especially some in extractive industries. Their exact role in initiating and lobbying for a strong anti-expropriation policy is unclear. But it is known that these companies were vocal, well-connected advocates of a tough, preannounced policy.

Repealing the Hickenlooper Amendment

Within a year the furor about Chile had declined (in direct proportion to the "destabilization" of that regime), and corporate opposition to mandatory sanctions surfaced and grew. Members of the House Foreign Affairs Committee returned from a Latin American trip convinced that "even those who allegedly benefit from these types of amendments favor their repeal."[52] Led by Representatives Culver and Whalen, they deleted the decade-old Hickenlooper amendment from the committee's 1973 bilateral aid bill. Aware that their move was potentially divisive, neither the committee nor interested corporations lobbied in the House. When the bill reached the floor, Culver and his allies were surprised and defeated by Representative Gonzalez, who substituted mandatory language consistent with his multilateral amendments.[53]

The Gonzalez substitute was unacceptable to State, AID, and the Council of the Americas. For the first time, the Council's trustees decided to work actively against mandatory sanctions. They supported only the addition of a presidential waiver, since they believed that more extensive revisions would appear to soften U.S. policy. A proposal to that effect was advanced by Senator Javits, was accepted by the Foreign Relations Committee and the Senate, and went to conference. Through-

[50] Letter to Peter Peterson, Executive Director of the Council on International Economic Policy, from José de Cubas, President, Council of the Americas, August 27, 1971, cited by Einhorn (fn. 48), 107.

[51] Though the Council later sent Senator Fulbright a letter suggesting opposition to new sanctions, it did not play an active legislative role until the bilateral amendments a year later.

[52] U.S., Congress, House, Committee on Foreign Affairs, *The Overseas Private Investment Corporation*, 93rd Cong., 1st sess., 1973, Committee Print, 18.

[53] Because Gonzalez's move was not elaborately planned, the heavy vote in his favor amply demonstrates the House's general ideological preference for hard-line measures. This substitute amendment was not prepared by his staff; according to several sources, it was probably drafted by Washington counsel to a major international oil firm.

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out this period the Council had been quite active. Its trustees had met with President Nixon, Secretaries Shultz and Dent, and Presidential Assistant Peter Flanigan. Describing these meetings, the Council's newsletter noted, "There was agreement with the Council that in cases under dispute there should be flexibility in U.S. response. . . ."[54] Extensive liaison work was done with both Congressmen and committee staff.

State and AID moved forcefully as well. They confronted Treasury by asking for an "executive branch position" on the legislation, and won. The decision, made by the President but not for attribution, supported a waiver provision.[55] Armed with that statement of Administration policy, House conferees could rationalize a vote for revision, which they had long supported individually. Without debate, the conferees voted overwhelmingly to accept the waiver. Their report was accepted by both Houses.[56] After more than a decade, bilateral aid sanctions against expropriations were no longer mandatory.

The new waiver provision created a bizarre inconsistency. Multilateral policy was now more stringent legally than was bilateral policy. Of course, proponents of bilateral revision preferred similar multilateral laws, but they were unable to act. Both the Council of the Americas and AID concluded that an effort to simultaneously reform multilateral laws would severely compromise their work on the Hickenlooper amendment. Furthermore, any effort would implicitly challenge the Banking and Currency Committee's jurisdiction over multilateral aid. Perhaps the most important difficulty was demonstrated the following year. The 1974 International Development Association bill was in such deep trouble that no one who supported its general concept dared to burden it with controversial modifications. Still, the radical hypothesis suggests that generalized corporate opposition will prevent Treasury from pursuing a policy of automatic sanctions.

Conclusions

Our initial hypothesis was that government policies to protect foreign investment, including the passage of laws and their enforcement, conform to the predominant preferences of the largest U.S. multinational corporations. To evaluate that hypothesis, we analyzed several debates

[54] Council of the Americas, *Newsletter*, December 26, 1973, p. 2.

[55] Treasury forced a decision at the presidential level. Nixon supported State and the Council of the Americas, but he also wanted to avoid raising the issue's salience. Thus, his decision was "not for attribution."

[56] *Foreign Assistance Act of 1973*, *Statutes at Large* 87, sec. 15, p. 722.

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concerning investment protection legislation and its application, ranging over fifteen years, and with quite varied outcomes. Throughout these debates corporate preferences were actively and directly expressed. The legislative politics of the Gonzalez amendments, however, suggest a necessary refinement of the original hypothesis. Relevant preferences were those held with sufficient intensity and prospect of individual gain to evoke active expression by the largest multinational firms. Because that body of corporate opinion was congruent with political outcomes in this issue-area, our refined hypothesis cannot be rejected.[57]

The most prominent alternatives to that hypothesis are those derived from the pluralist and bureaucratic models. An exemplary use of the pluralist model can be found in Bauer, Pool, and Dexter, *American Business and Public Policy*, still the most important work by political scientists on that topic. Limiting their study to U.S. trade policy, they conclude that divisions within the business community, impediments to communication, and countervailing pressures vitiate the overall importance of corporate opinion in that issue-area.[58]

Those findings cannot be generalized to the politics of investment protection, however. We found no constituencies that opposed multinational investors. Uncontested, and seldom weakened by internal dissention, corporate preferences effectively modified several aid bills. The Hickenlooper amendment was passed and expanded with unanimous and active business support. Disagreements about multilateral policy were primarily latent in 1972. The next year, the Council of the Americas clearly and successfully expressed the predominant multinational corporate view.

Though the conclusions arrived at by Bauer, Pool, and Dexter are inapplicable here, the pluralist model can yield accurate and economical predictions about the use of foreign aid to protect investments from expropriation. A pluralist hypothesis, like the radical one advanced earlier, would predict the predominance of large multinational corporations in this issue-area. A pluralist would expect large, intense, well-organized actors to predominate in the absence of a strong opposi-

[57] Congressional debates about investment protection have frequently considered corporate interests and preferences quite explicitly. However, such considerations were not preeminent for many legislators. Many invoked Palmerstonian imagery, conceptualizing corporations as citizens entitled to the full protection of their government. Senator Hickenlooper appealed to this notion, among others, in 1962 and 1963. Such imagery raises important questions about the social determination of a seemingly "neutral" ideology.

[58] Raymond A. Bauer, Ithiel de Sola Pool, and Lewis A. Dexter, *American Business and Public Policy* (New York: Atherton Press 1963), Part IV, esp. 421-24.

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tion. Not only does the pluralist model predict well, it also captures important aspects of the policy process. Unlike the bureaucratic model, it conceptualizes policy making broadly, explaining outcomes in terms of the articulated interests and concerted efforts of nongovernmental actors.

Despite the important virtues of the pluralist model, there are serious difficulties in using it to explain U.S. anti-expropriation politics. The most significant is the pluralist conception of the legislator, who is hypothesized as a broker responding solely to the direct influence of environmental forces. With respect to investment protection legislation, the pluralist model focuses attention on direct corporate action, like that which initiated the Hickenlooper amendment. Yet the congressional debates also revealed strong, independent legislative interest in anti-expropriation policies. There was also broad, fundamental consensus about the international norms which should govern foreign direct investment. Although foreign governments' rights of eminent domain were not challenged directly, there was general agreement that it was improper (and usually imprudent) to transfer productive assets from private to state control. Most Congressmen, administration officials, and executives of large multinational firms agreed that rigorous repayment principles should be maintained. Disagreements arose chiefly over which policies could most effectively achieve these objectives. Thus, government decision makers and corporate executives were bound by mutual sympathy, responding in broadly similar ways to changes in the global environment for foreign investment. For example, the Johnson-Bridges amendment was basically an independent congressional response to the Cuban expropriations. Representative Gonzalez's efforts in 1973 had some corporate support, but there was almost no lobbying before the House vote. His success in that vote, which overturned another committee's recommendation, reflected many legislators' stubborn, hard-line opposition to expropriation, the ideological remnant of a policy once supported by most multinational firms. Still, the debates over Representative Gonzalez's amendments in 1972 and 1973, like the earlier ones over the Hickenlooper amendment, demonstrated the government's underlying consensus about anti-expropriation norms and U.S. policy objectives. Within that consensus there were significant strategic and tactical differences, which were resolved in favor of the predominant preferences of large multinational corporations, as is predicted by the radical hypothesis.[59]

[59] I am indebted to Robert Keohane for his comments on an earlier version of this section.

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Bureaucratic analysts would explain those outcomes quite differently, referring almost exclusively to intragovernmental actors as the key elements in policy determination. For example, Jessica Pernitz Einhorn's careful study, *Expropriation Politics*, examines that topic solely in organizational terms. She emphasizes bureaucratic interests, formal and informal procedures, bargaining rules, and the formation of intragovernmental alliances.[60]

One cannot directly compare the predictions of the radical hypothesis with those of the bureaucratic model, which specifies some features of the policy process but does not predict outcomes. By contrast, our study empirically confirms predictions derived from the revised radical hypothesis about the outcomes of policy debates and the pattern of the Hickenlooper amendment's implementation. The predictive value of the radical hypothesis in this issue-area, as well as its parsimony, can be compared with that of the bureaucratic model, which is more complicated but adds no predictive power. Nevertheless, as a disaggregative, purposive account of intragovernmental action, the bureaucratic model can usefully complement a radical focus on domestic social structure.

According to Robert Art, the distinctiveness of the bureaucratic model must depend upon its assertion of three fundamental propositions:

1. organizational position determines policy preference;
2. policy decisions and actions are the unintended consequences of intragovernmental bargaining; and
3. organizational routines and interests affect policy implementation more than they do policy formulation.[61]

Throughout our study one finds evidence illustrating these assertions. As the disputes between State and Treasury indicate, policy calculations were not uniform and preferences were often a simple function of organizational interests. In addition, the bureaucratic division between bilateral and multilateral aid probably makes it easier to add automatic sanctions to the former and delete them from the latter. Responsibility for policy implementation in these cases seems to increase an organization's ability to formulate policy. Finally, as Art's second proposition indicates, decision making at the national level is an institutionally diffused, and frequently contested, process. The President, two White House councils, several Departments, both Houses of Congress, and

[60] Einhorn (fn. 48), esp. chap. 6.

[61] Robert J. Art, "Bureaucratic Politics and Foreign Policy: A Critique," *Policy Sciences*, No. 4 (1973), 472-76.

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several congressional committees all played important roles in formulating investment protection policy.

Despite these suggestions which supplement and enrich the analysis of anti-expropriation politics, the bureaucratic model is seriously flawed. The function that links organizational position and policy preference is currently quite ambiguous. Often one cannot deduce preferences about specific policy issues from vague conceptions of organizational essence. In any event, most bureaucratic analysts tend to qualify, and thus confound, that idea by recognizing both the pervasiveness of shared social images and the persistence of individual experience. Because it is fundamentally equivocal about the President's power, the model's elaboration of decision rules must remain tentative as well.[62]

The most serious inadequacy of the bureaucratic model is its ascription of a neutral, asocial character to government policy making. The model presumes but does not analyze the domestic context which legitimates policy objectives, circumscribes the arguments of opposing bureaucracies, and, ultimately, limits policy outcomes. By failing to understand the logic by which certain options are excluded, the model must sometimes fail to illuminate the logic by which others are chosen. As a result, the bureaucratic model can best augment our analysis if its purposive account of intragovernmental decision making is located in a domestic context that makes policy goals and shared assumptions comprehensible.[63]

In investment-protection politics, multinational corporations were a vital aspect of that domestic context. Because those firms played such an important role in the United States' international economic relationships, the threat of expropriation inevitably raised serious foreign policy issues. Throughout the period we have studied, these issues were considered in an ideological context that stressed the positive contributions of foreign investments to domestic welfare. That implicit link between corporate well-being and domestic well-being had a complex effect on policy making. Most significantly, it provided a convincing rationale for government efforts to protect foreign direct investments. It also suggested that there was a national stake in the outcome of expropriation disputes that was, to some extent, independent of corporate preferences. That independence was reinforced by the idea that investment-protection policies embodied implicit standards of justice.

[62] *Ibid.*; Stephen D. Krasner, "Are Bureaucracies Important?" *Foreign Policy*, No. 7 (Summer 1972), 166-69.

[63] See Bruce Andrews, "Empire and Society: Toward a Contextual Explanation of American Aims and Policy in Vietnam," Ph.D. diss. (Harvard University 1975), chap. 1.

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Though more sophisticated multinational businessmen and government officials understood that hard-line policies were self-defeating, others continued to believe not only that uncompromising anti-expropriation sanctions were effective deterrents, but that they were just retribution. Though that belief was declining in importance, its persistence was amply revealed in the difficult fight to repeal the Hickenlooper amendment in 1973.

But policy disputes should not obscure the fundamental consensus about the objective of investment protection. Offering U.S. corporations protection when they were confronted by nationalist demands was a shared goal of all relevant bureaucracies. None of the debates challenged the appropriateness of that basic policy objective, or even its rank-order prominence. Some have termed these intra-administration debates "expropriation politics"; they could more accurately be called "anti-expropriation politics." Even the State Department de-emphasized the potential conflict between investment protection and the pursuit of other policy goals. The central theme of the losers' arguments—those of the President (1962), the State Department (1962, 1963, 1972), and the Treasury Department (1973)—like that of the winners', was their strategy's superior ability to protect investments. That theme is even more noteworthy because the arguments were conducted within government forums that differed widely in membership. The narrow limits to policy debate, as well as the active participation of multinational corporations in the policy process, strongly suggest that the radical hypothesis is not confounded by problems of spurious causation.

Even though the predictions of the refined radical hypothesis have been empirically affirmed, two interesting questions about foreign aid sanctions have not been answered. Why was legislation needed to embody corporate preferences in public policy? Though the Kennedy Administration's opposition was weak and narrow, interested corporations still considered the executive's initial response unsatisfactory. They had to work with Congress to prod the Administration and induce more satisfactory policies. Second, why are the Gonzalez amendments still statutory law? The answer lies in the linkage between those sanctions and legislative support for multilateral aid. Opponents of the amendments generally support such aid and are unwilling to imperil the entire program by introducing controversial revisions. On the other hand, the radical hypothesis correctly predicts that overt, mandatory sanctions are no longer official policy. Given current corporate preferences, the corollary hypothesis predicts that the Gonzalez amendments will not be formally invoked.

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As the decline of the Hickenlooper amendment demonstrates, most multinational companies now think that inflexible threats to suspend foreign aid are either ineffective deterrents or a self-defeating form of retribution. In particular, their use would impede the solution of the most important investment protection issues: the establishment of profitable new relationships with economically powerful nationalist regimes. Many such regimes have vigorously extended state participation in the economy, especially in the area of ownership and control over extractive industries. Unable to stem the changes, and subject to further challenges from firms that are not integrated into existing oligopolies, large U.S. multinationals are reluctantly, but profitably, adapting to the situation. To maintain access to necessary factors of production and to desirable markets, many companies have been forced to seriously consider formulas that give them only partial ownership and control, or management contracts without equity investments. They expect to protect profits by relying on their other advantages, including networks for manufacturing, transporting, and marketing finished products. But self-reliance is not autarky. Corporate advantages can be (and certainly have been) complemented by diplomatic support. The current problem for multinational firms is that bilateral diplomacy has been unable to protect their equity investments in a broad array of recent conflicts, especially those with economically powerful nationalists. Neither the companies nor the U.S. Government have yet developed a coherent, effective response to this complex challenge. But most large multinational corporations now agree that the automatic application of sanctions would only automatically sever their future profits.

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Research Note

BUREAUCRATIC POLITICS AND THE WORLD FOOD CONFERENCE: The International Policy Process

By THOMAS G. WEISS and ROBERT S. JORDAN*

> [I]t is in the crucible of administrative politics today that public policy is mainly hammered out, through bargaining, negotiation, and conflict among appointed rather than elected officials.
>
> —Francis Rourke[1]

INTRODUCTION

EMERGING global problems involving the welfare of peoples, states, corporations, or international organizations are increasingly perceived as slipping beyond the scope of conventional diplomatic and administrative means. The response of the UN system has been a change from an overriding concern with war prevention and peace keeping in its early years, to a more equally shared emphasis—and 90 per cent of its financial and human resources—on the improvement of human welfare.[2] However, the first fifteen years have not been as successful as they were originally expected to be. The existing resources and institutions devoted to economic and social development are inadequate to the task, and are increasingly perceived as such. This does not mean that existing institutions could not perform more effectively according to their current mandates, or that their mandates could not be altered to enable them to address new or enlarged global welfare issues. Rather, their histories—and the history of the evolution of the entire UN system—have made them appear captives, if not hostages, to roles that are inconsistent with the needs and demands of a kaleidoscopic and highly dynamic global dialogue.

The leading theoretical approaches to the study of international or-

* The authors are writing in their private capacities; the views expressed are the sole responsibility of the authors, and not of their respective organizations.

[1] *Bureaucracy, Politics and Public Policy* (Boston: Little, Brown 1969), vii.

[2] See Harold K. Jacobson, "The Changing United Nations," in Roger Hilsman and Robert C. Good, eds., *Foreign Policies in the Sixties: The Issues and the Instruments* (Baltimore: Johns Hopkins Press 1965), 67-89.

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ganization have sought explanations of these developments by inquiring into the "preconditions" of successful international collaboration on welfare issues. Functionalist theories are only the most well-known variants of the search for preconditions; other approaches, such as those resting on game theory and the theory of collective goods, have also been employed.[3] At best, however, such approaches can furnish necessary, though not sufficient, conditions for successful task performance by international organizations. Even when functionalist or other preconditions are met, international organizations are likely to perform their functions adequately only when various conditions of administrative leadership and bureaucratic efficiency obtain as well.[4] As international cooperation on welfare issues grows more ambitious and complex, and the established bureaucracies are challenged by increasingly powerful new constituencies, questions of bureaucratic politics in the international setting will become commensurately more important. Those who wish to understand the policy process at the international level must devote greater energy to the examination of these problems than the scholarly literature has thus far.[5]

[3] For exemplary recent discussions of international functionalism, see Ernst Haas, "The Study of Regional Integration," *International Organization*, XXIV (Autumn 1970), 607-48; and J. S. Nye, *Peace in Parts* (Boston: Little, Brown 1971). An attempt to test functionalist hypotheses from the point of view of the theory of collective goods is J. G. Ruggie, "Collective Goods and Future International Collaboration," *American Political Science Review*, Vol. 66 (September 1972), 874-93.

[4] This fact has long been considered obvious with regard to bureaucratic behavior at the national and subnational levels. As Michel Crozier has written: "[Modern society] evokes the slowness, the ponderousness, the routine, the complication of procedures, and the maladapted responses of 'bureaucratic' organization to the needs which they should satisfy, and the frustration which their members, clients or subjects consequently endure." *The Bureaucratic Phenomenon* (Chicago: University of Chicago Press 1964), 3; (author's trans.). The phenomenon of incrementalism, inertia, and the need for survival have been summarized by Charles Lindblom as "The Science of Muddling-Through," *Public Administration Review*, XIX (Spring 1959), 79-88. See also the UNITAR paper prepared by Robert S. Jordan and John P. Renninger, "What Has Happened To Our International Civil Service?" for an overview of the current situation in what is an important yet generally little known segment of international life.

[5] We do not maintain that the administrative or bureaucratic perspective is wholly lacking in the literature, but that scholars have paid insufficient attention to it and probably underestimate the importance of the subject. Recent discussions of administrative reform of the UN system constitute one class of exceptions. See, for example, Robert G. A. Jackson, *A Study of the Capacity of the United Nations Development System* (Geneva, UN document DP/5, 1969); Martin Hill, *Towards Greater Order, Coherence and Co-ordination in the United Nations System* (New York, UNITAR Research Report No. 20, originally E/5491 1974); and Arthur Goldschmidt, "The Re-invention of ECOSOC," *International Development Review*, XVI (1974), 23-29. The theme of dispersed administrative authority had been investigated much earlier by Walter Sharp in *Field Administration in the United Nations System* (London: Stevens 1961) and

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The argument of this essay is not just that the bureaucratic decision-making perspective is of methodological interest. Attention to bureaucratic processes can lead to a clearer discernment of the causes and conditions of organizational success or failure, and this can serve as a partial antidote to the general pessimism surrounding expectations on the part of international bureaucracies. By focusing on one example —the World Food Conference—through the "lens" of international organizations and their administrations under stress, we find that progress, even though halting, has been made by the officials of the international community in ordering, in one important sector, the process of "interdependence."[6]

The enormous difficulties that result from attempts to ameliorate human problems arising from a growing interdependence have been fully discussed elsewhere. The dilemma is that these problems must

The Economic and Social Council (New York: Columbia University Press 1969). On problems of staffing, see Maurice Bertrand, *Personnel Questions: Report of the Joint Inspection Unit on Personnel Problems in the United Nations*, 5 October 1971, A.8454, Parts I and II; and *Report on Medium-Term Planning in the United Nations System*, JIU/REP/74/1. UNITAR participated in the Group of Experts to Study the Structure of the United Nations, as part of the preparations for the seventh special session of the General Assembly, held in September 1975. Questions of bureaucratic politics are at least implied in many studies of leadership in international organizations. The theoretical implications of leadership have been stated by Robert W. Cox, "An Essay on Leadership in International Organizations," *International Organization*, XXII (Spring 1969), 205-30. Biographical and analytical discussions of the two most widely recognized international officials—the ILO's first Director-General, Albert Thomas, and former UN Secretary-General Dag Hammarskjöld—are: E. J. Phelan, *Yes and Albert Thomas* (New York: Columbia University Press 1949), and Leon Gordenker, *The UN Secretary-General and the Maintenance of the Peace* (New York: Columbia University Press 1967). For more general discussions of leadership in international organizations, see: David Coombes, *Politics and Bureaucracy in the European Community* (London: Allen and Unwin 1970); Amatai Etzioni, *Political Unification: A Comparative Study of Leaders and Forces* (New York: Holt, Rinehart & Winston 1965); G. Fischer, *La compétence du secrétaire général* (Paris: AFDI 1965); Robert S. Jordan, *The NATO International Staff Secretariat, 1952–1957: A Study in International Administration* (London: Oxford University Press 1967); Stephen M. Schwebel, *The Secretary-General of the United Nations* (Cambridge: Harvard University Press 1952); and F. Van Langenhove, *Le rôle prééminent du secrétaire général dans l'opération des Nations-Unies au Congo* (The Hague: Nijhoff 1964). Finally, the bureaucratic politics approach has been combined with research on transnational politics to yield useful hypotheses regarding interaction between national and international bureaucracies; see Robert O. Keohane and Joseph S. Nye, "Transgovernmental Relations and International Organizations," *World Politics*, XXVII (October 1974), 39-62.

[6] For a discussion of the theoretical implications of such an evolution, see Richard N. Rosencrance and Arthur A. Stein, "Interdependence: Myth or Reality?" *World Politics*, XXVI (October 1973), 1-27; and Donald J. Puchala and Stuart I. Fagan, "International Politics in the 1970's: The Search for a Perspective," *International Organization*, XXVIII (Spring 1974), 247-66. The implications for U.S. policy making can be found in Seyom Brown, *New Forces in World Politics* (Washington, D.C.: Brookings Institution Press 1974).

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be worked out within the present international system, which still operates according to the ground rules of autonomous and sovereign nation-states that evolved after the Peace of Westphalia in 1648.[7] The policy challenge becomes how to create—or alternatively, how to understand and then to reform—the existing machinery of international administration to enable it to cope with these interdependent problems.

As for the major issues involving food, the existing international machinery is largely contained in the Food and Agriculture Organization. For reasons that will be discussed below, various segments of the international community had become dissatisfied with the FAO's responses to the food pressures that had grown more visible and urgent by the early 1970's. The World Food Conference, held in Rome on November 5-16, 1974, was not only an exercise in *ad hoc* multilateral diplomacy designed to meet the immediate threats of the food crisis; it was also an attempt to rebuild the international food bureaucracy, either by replacing FAO or by reforming it.[8] In our judgment, the Conference largely succeeded; it created a World Food Council, organizationally linked to FAO in Rome, but separately responsible to the General Assembly through the Economic and Social Council. Less obviously, it also encouraged organizational realignments within the FAO, drew in new and younger personnel, and motivated reassessment of many of the FAO's own policies. The question that needs an answer is, how did these developments come about?

Our discussion of this question is an application of decision making to international organization. Analyses of decision making have increased dramatically since the Second World War,[9] because decisions—

[7] A discussion of this system and its present inadequacies is the basis for Richard A. Falk, *A Study of Future Worlds* (New York: Free Press 1975), chap. 2. For the contrast between international relations as viewed from conventional and newly evolving perspectives, contrast Hans J. Morgenthau, *Politics Among Nations* (New York: Knopf 1973) and Richard W. Sterling, *Macropolitics* (New York: Knopf 1974).

[8] For an expanded discussion of the issues and the administration of this conference, see Weiss and Jordan, *The World Food Conference and Global Problem Solving* (New York: Praeger 1976), in the series Special Studies in International Economics and Development. Our study of the Food Conference is based largely on our observations of several preparatory meetings and of the Conference itself, on follow-up interviews with participants, and on the large volume of documentation—both official and critical—generated by the Conference.

[9] Decision-making analysis is usefully divided into two general categories the impact of which modifies the idealized behavior of any staff: individual and group dynamics. For an analysis of individuals' shortcomings within an organization, see Richard G. Snyder, H. W. Bruck, and Burton M. Sapin, *Decision-Making as an Approach to the Study of International Politics*, Foreign Policy Analysis Series No. 3 (Princeton: Princeton University Press 1954), later expanded as *Foreign-Policy Decision-Making*

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or, to use Easton's terminology, the "outputs" of the political system by which values are authoritatively allocated within a society[10]—have become recognized as a central element in all political processes. Decision making is the process that leads to a choice from available alternatives. We do not mean to imply that any international administrative unit or conference is presented with a neat set of alternatives from which a selection is made after carefully weighing possible outcomes according to a fixed scale of utility. That is not generally true for national bureaucratic units, and perhaps even less so for international ones. However, certain decisions *are* made, certain programs *are* undertaken, and certain institutional settings *do* arise.

Our perspective enables us to analyze why the administrative inputs into the World Food Conference permitted that international gathering to act in ways that are different from or similar to other global, *ad hoc* conferences. Although the literature of decision making has been more thoroughly applied to the study of foreign policy, it has long been at least vaguely implicit in descriptive approaches to the study of international organization and administration. Several important insights are available, although it is not possible to have a complete set of verifiable hypotheses. Nevertheless, we will attempt to explain why certain administrative processes can lead to improved dialogue and cooperation, and perhaps to a more equitable distribution of world resources.

The Reaction of the FAO Secretariat to the World Food Conference

The reason mentioned most frequently by national delegates and international officials for calling the World Food Conference under UN rather than FAO auspices was that the UN specialized agency charged with food and agricultural problems is not universal in its membership. From 1945 on, the Soviet Union has neither participated in nor joined the FAO.

(New York: Free Press 1962). On the other hand, Graham Allison stresses primarily organizational processes in "Conceptual Models and the Cuban Missile Crisis," *American Political Science Review*, Vol. 63 (September 1969), 689-718, later expanded as *Essence of Decision: Explaining the Cuban Missile Crisis* (Boston: Little, Brown 1971). For a discussion of contributions of both approaches in summary form, see Raymond Tanter, "The International System and Foreign Policy Approaches," in Raymond Tanter and Richard H. Ullman, eds., *Theory and Policy in International Relations* (Princeton: Princeton University Press 1972), 7-39.

[10] David Easton, *The Political System* (New York: Knopf 1959), 129-31. See also Harold Lasswell, *Politics: Who Gets What, When, How?* (New York: Whittlesey 1936), passim.

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Besides lacking universal membership, the FAO was viewed as an institution more appropriate for leading a discussion of isolated problems by departments of agriculture than for attacking the large-scale global problems of food deficits and inadequate agricultural development. In general, specialized branches of governments respond to conferences through their most relevant bureaucracy; but it was felt that a problem that necessitated a political response involving several branches of governments as well as several international institutions should be discussed in a global, *ad hoc* conference called by the UN itself rather than a specialized agency, however relevant functionally.

A third and equally basic explanation for calling the Conference under UN auspices was that the performance of the FAO, like that of many international organizations, was viewed as disappointing by many developing countries. They had originally lobbied for a world food conference under the auspices of UNCTAD, whose philosophical orientation is clearly more pro-Third World. The sponsorship of the Food Conference by the UN may be seen as a compromise, but also as a partial rejection of FAO by the developing countries. For example, the Chairman of the Group of 77 for the Conference, Edmundo Flores, was critical of the FAO's performance and proposed the use of more brown, black, and yellow functionaries instead of the Western Europeans who, he asserted, possessed an anachronistic world view: "FAO is like the Catholic Church during the reformation. Its organization and its methods no longer suit the changing times."[11] Other, less personal disapprobations have been voiced over the years: "When he [Lord Boyd Orr, the first Director-General] left the Food and Agriculture Organization it lapsed into the pedestrian and narrowly functional concern from which he had tried to save it. . . . [I]t was clearly concerned more with the commodities than with the people who needed these commodities."[12]

Whether or not these opinions critical of the FAO's responsiveness are excessive, the *perception* of the inadequacy of existing international organizations, held by many developing countries, is a political reality. The General Assembly's call for global, *ad hoc* conferences in part represents an articulation of this dissatisfaction and a desire to adapt the institutional structure created by the developed nations in the immediate postwar years to the needs of the 1970's and 1980's, as these needs are perceived by the developing Third World. The sixth and

[11] "Interview," *Pan*, 7 November 1974, p. 5.
[12] Richie Calder, "Introduction," to Lord Boyd Orr, *As I Recall* (London: MacGibbon and Kee 1966), 22.

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seventh special sessions of the General Assembly were in fact so viewed by several of the national delegates interviewed in the course of preparing this article.[13]

The criticism by some developing countries of the FAO's past performance,[14] and the subsequent defensive reaction of the FAO secretariat, resembled in important ways the events that led to the convening of the first United Nations Conference on Trade and Development in 1964 and the subsequent reaction of GATT. According to the widely accepted explanation, UNCTAD was founded because developing countries that had recently been admitted to the UN were dissatisfied with their progress toward achieving the goals of the first development decade and had become convinced that GATT was ignoring their interests. Furthermore, although the OECD states argued that GATT had in fact broadened its mandate to embrace issues not specified in the General Agreement and had remained an appropriate channel for negotiations, the developing countries pressed for UNCTAD because they were not impressed by GATT's success in achieving more favorable terms of trade for them. What had become known as the "GATT issue" was transformed after the establishment of UNCTAD; GATT began to respond more positively to the needs of the developing Third World.[15]

In the same manner, the FAO's response to the World Food Conference was bureaucratically defensive as well as creative and responsi-

[13] As one commentator has noted: "The ground rules for international economic cooperation that were drawn up in the 1940s under the leadership of the United States were aimed primarily at preventing actions found harmful by the major Powers during the 1930s, not at promoting practices helpful to the emerging nations. Since about 1950, however, the international community has devoted an enormous amount of attention to the manifold problems of the low-income countries, gradually modifying the original ground rules and introducing many innovations, including various forms of development assistance. The spokesmen for the less developed countries nevertheless continue to think they are condemned to live in a world they never made under arrangements designed to perpetuate their underdog status." Robert E. Asher, "International Agencies and Economic Development," *International Organization*, XXII (Winter 1968), 433.

[14] National perceptions about organizational performance rarely consider budgetary constraints. It must be remembered that if one compares the FAO's budget with its mandate, then—in the words of one official—"somebody must be joking." For a more positive assessment of the FAO's performance, see Robert Bard, *Food Aid and International Agricultural Trade* (Lexington, Mass.: Lexington Books 1972).

[15] See Branislov Gosivic, *UNCTAD: Compromise and Conflict* (Leiden: A. W. Sijthoff 1972), *passim*; Diego Cordovez, *UNCTAD and Development Diplomacy: From Confrontation to Strategy* (London: Journal of World Trade Law 1970), esp. chap. 3, "The UNCTAD-GATT Relationship," 57-72; and Kamal Hagras, *United Nations Conference on Trade and Development: A Case Study in UN Diplomacy* (New York: Praeger 1965), *passim*.

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ble. In October 1973, when the General Assembly called for the Conference, the reaction of many FAO officials was a mixture of concern and alarm. The organization, whose program budget had fallen in real terms for the first time in 1972–1973, moved at once to ensure its future participation and bureaucratic role. Most important was the FAO's pledge of $500,000 to cover Conference expenses and its active lobbying to be in on "the action." Among other things, at its 1973 meeting, the Conference of FAO proposed that the World Food Conference's secretariat as well as all the sessions of the Preparatory Committee and the Conference itself be located at FAO's headquarters, and that the members of the Preparatory Committee be selected by the FAO.[16] The suggestions were only partially accepted: the Preparatory Committee was open to all governments; the first and second sessions of the Preparatory Committee were held in New York and Geneva respectively; the third session and the Conference itself were held in Rome, but not at FAO headquarters.

At the other end of the line, the most energetic criticisms of the proposal for a World Food Authority[17] to implement the resolutions of the Conference were advanced by the FAO secretariat. This is not surprising, since it is a rare institution that would welcome a rival in its own realm of competence. What was unusual, however, was the extent to which the FAO pursued its lobbying efforts. Even after it became clear that the proposed World Food Authority would be rejected by the Conference as a follow-up mechanism, the FAO continued to fight the idea of any such organ and to propose that it undertake the primary responsibility for follow-up procedures itself.[18] Despite the fact that the idea of a World Food Council was gathering the support of delegations as the mechanism to follow up the Conference,[19] and despite the fact

[16] *Report of the Conference of FAO*, 17th Session, 10-29 November 1973 (Rome: FAO 1973), document C73/REP, paras. 280-291, pp. 54-57.

[17] "The World Food Authority," *The world food problem, proposals for national and international action*, E/CONF.65/4, chap. 20, 225-31.

[18] One commentator wrote, "FAO had failed to get the message. The politicians didn't reject the idea of a World Food Authority because they wanted to avoid creating *another* international bureaucracy. They did it because they positively prefer political committees of Ministers when it comes to making policy. They know something that FAO seems to be unaware of: that is the way things tend to get done." Anthony Harris, "Decision? Forget the FAO," *Pan*, 13 November 1974, p. 7.

[19] "VI. Follow-up Action, Resolution XXII, Arrangements for Follow-up Action, Including Appropriate Operational Machinery On Recommendations or Resolutions of the Conference," *World Food Conference, Note by the Secretary-General*, 22 November 1974, E/5587, pp. 99-102. The World Food Council was the central focus in General Assembly Resolution 3348 (XXIX), 17 December 1974.

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that high FAO officials declared in private that it would be impossible for the FAO to absorb even a doubling of its budget, the FAO secretariat continued to maintain publicly that most of the upgraded servicing program and concomitant machinery be set up within a drastically enlarged FAO framework. Although the Conference was clearly a UN affair, the FAO's reaction in the face of its own diminishing budget and authority was predictable. As one observer has noted, " 'Have-not' organizations, like 'have-not' nations, are particularly likely to violate any spheres of interest agreement when an opportunity presents itself to improve their position *vis-à-vis* a stronger competitor."[20]

These comments are not meant to detract from the positive contributions made by the FAO to the ultimate success of the World Food Conference. Several of the top administrative officials of the Conference secretariat were FAO professional staff on leave, many of whom worked twelve hours a day between March and November 1974. The FAO was responsible for producing complex and useful background documents[21] as well as for conducting public-relations activities, despite the fact that the FAO secretariat was already overextended. The logistics of the crucial "Meeting of Interested Delegations," the final session of the Preparatory Committee, and the World Food Conference itself were arranged by the FAO. Several of the important ideas—on fertilizers, on an information system, and on food security—were already in preparation and were only given additional stimulus by the Conference.

Lord Boyd Orr's vision of an all-encompassing food and agricultural organization was much ahead of its time in the late 1940's. Key governments had surpluses and did not want to abandon any leverage over the international politics of food to an international agency. Not only did the Soviet bloc not participate in the FAO, but other governments over the years began sending more junior representatives to the Council meetings; with quota systems on staff recruitment, the technical expertise of the organization began to diminish. In the search for a feasible role in the 1960's, the FAO turned to funding technical assistance projects from money available through the UN Development Program, thereby giving secondary priority to its policy and research roles.

In this context, the 1972 food crisis can be viewed as providing a catalyst for the organization's rejuvenation. The FAO itself began to gear up, proposing, for example, networks for international stocks of

[20] Rourke (fn. 1), 36.

[21] *Assessment of the world food situation, present and future*, E/CONF.65/3, and *The world food problem, proposals for national and international action*, E/CONF.65/4, were the backbone of the Preparatory Committee's work.

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food and for a system of food security based on information, reserves, and stocks. Some governments were wary of such initiatives, and warned against "overreactions" despite the continual worsening of the global food situation in the early 1970's. As the crisis became more widely recognized, the General Assembly's call for the World Food Conference actually blended in with FAO's new policy initiatives; and because governments gave the go-ahead under the political umbrella of the United Nations, the FAO—to quote several officials—"went full blast." The latent collective expertise in the FAO secretariat came fully into play, with forty to fifty staff members devoting their time to the production of documents and the arrangements for the global conclave. Thus, the FAO was energized by the World Food Conference; it now appears prepared and enthused to make a maximum contribution to global agricultural development. The FAO Council's positive attitude, as expressed at its annual meeting in November 1974 and at a special session in March 1975, may be seen as crucial to the success of the newly established World Food Council.[22] The essential determinants of the capacity of the World Food Council to do the job intended by General Assembly Resolution 3348 (XXIX) are the potential for increased funding from the International Fund for Agricultural Development and the servicing that can be provided by two new supporting committees within the FAO. The reconstitution of the Intergovernmental Committee of the World Food Program into the new Committee on Food Aid Policies and Programs, and the establishment of an FAO Committee on World Food Security, will provide the vital information that will enable the World Food Council to review "all aspects of world food problems in order to adopt an integrated approach towards their solution." It remains to be seen, of course, whether the Council itself will be able to carry out its mandate. The suspicions of the developing Third World toward FAO and GATT may well be carried over against the Council, given its strong Western bureaucratic composition. The mid-1975 meeting of the Council suggested, in fact, that this was happening.

For example, at the same time that the FAO was considered crucial to the success of future efforts to alleviate the world's food problem, it was also considered a possible hindrance to such efforts. As one journalist reported the situation in Rome: "One early concern about the effectiveness of the World Food Council was the extent to which it might be hobbled by too close a link with the Food and Agriculture

[22] *Report of the FAO Council*, 64th Session, Rome, 18-29 November 1974, CL 64/REP, 6-9.

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Organization, a huge bureaucracy that is widely regarded as ineffective and sometimes counterproductive in the case of improved agriculture."[23]

The FAO lobbied behind the scenes during the Food Conference and shortly thereafter to keep the World Food Council under its jurisdiction. The effort failed when the Second Committee removed the words "within the framework of FAO" from the original mandate of the Council, and the General Assembly decided that the Council would be funded directly from the budget of the UN secretariat and not from that of the FAO.

In the context of a direct political rebuff to the organization, the commitment of $1 million by the FAO Council to overhaul its administrative structure is very significant. Despite the criticism of past efforts implied by the actions of the General Assembly, the FAO Council facilitated a collective organizational "biting of the tongue" in admitting that "the Conference would have a major impact on the Organization, and called for a searching reexamination of FAO priorities."[24] The commitment of significant financial resources should be seen as an indication of willingness and an ability on the part of an established organization such as the FAO to respond to the need expressed by the international community for effective implementation of new programs. This is particularly true because the money allocated for the Conference's follow-up does not represent additional funds, but rather a cut-back in existing programs, a shift in priorities, and concentration of efforts. In fact, this development suggests that too little attention has been given to the funding requirements of all international agencies in light of the devaluation of the dollar and global inflation, both of which have severely diminished UN programming. The problem of regearing the FAO to respond to the needs of the World Food Council has an air of unreality, given the fact that the organization's budget in real terms fell during the last four years; it is nonetheless a sign of organizational and bureaucratic good intentions and commitment.

The Leadership Provided by the Secretariat of the World Food Conference

In contrast to the behavior of the FAO secretariat during the Conference, the Food Conference's own secretariat reacted remarkably flexibly when its proposed institutional follow-up mechanism, the

[23] Boyce Rensberger, "Long-Range Plans to Feed World Are Moving Ahead," *New York Times*, 16 March 1975, p. 28. This is not necessarily the opinion of the authors.
[24] *Report of the FAO Council* (fn. 22), 8.

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World Food Authority, was firmly rejected. That proposal—developed at length in Chapter 20 of the FAO secretariat's document on proposals for action—spelled out comprehensive institutional alterations, complete with organizational flowcharts, designed to integrate all of the UN's activities relating to food and agricultural matters and to solicit more adequate funding for them. However, the delegates from developed and developing countries alike preferred a more political committee to keep governmental ministers concerned and committed to action to resolve the food problem.[25] The argument was that a nonbureaucratic group could negotiate about programming at the ministerial level and presumably attract funding for the existing organizations to get on with the actual administration of expanded programs. Lacking permanent organizational self-interests, the Conference's secretariat was neither interested in empire building nor overly attached to its own formulation of ideas; rather, it was committed to the ultimate success of the Conference. Hence, a minimum amount of time was expended by these international civil servants in lobbying for the World Food Authority after it became clear that its fate was doomed. The efforts of the Conference secretariat went primarily into facilitating the delegations' endeavors to formulate their own plans for implementation.

This flexible role was especially significant because the concept of a World Food Authority was the personal preference of the Conference's Secretary-General, Sayed Marei. Part of the explanation for Marei's suppleness undoubtedly is that he was not a permanent international bureaucrat and did not aspire to become one; rather he was an active politician, holding ministerial rank in his own government.[26] More important, however, he appeared emotionally capable of placing the success of the Conference's follow-up ahead of the fate of his own proposal. It apparently mattered little to him that the two most important institutional frameworks to emerge from the World Food Conference—the International Fund for Agricultural Development and the World Food Council—actually represented the rationale and even the

[25] U.S. Secretary of State Kissinger's proposal suggested three such new structural committees—the highest number mentioned.

[26] On October 23, between the final session of the Preparatory Committee and the World Food Conference, Marei was elected to the presidency of the Egyptian Parliament. He had been special adviser to Anwar Sadat, and had previously held several important agricultural posts in the government. For details, see: J.-P. Péroncel-Hugoz, "M. Sayed Marei parait désigné pour succeder au président Sadate," *Le Monde*, 25 October 1974, p. 2. Marei was unconcerned about a future within the international civil service, and had already removed himself from consideration to head the FAO (Director-General Boerma was scheduled to retire in 1975) or any agency resulting from the World Food Conference. At the June 1975 meeting of the World Food Council he was, however, elected President of the Council.

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language of his own proposed World Food Authority, but that the credit for these innovations, publicly at least, went elsewhere.[27]

Marei had been advised not to include Chapter 20 in the secretariat's action-proposals, but this advice from seasoned national and international officials was not entirely appropriate. It is true that politicians do not like being pushed by international civil servants. Many delegates interviewed during the final session of the Preparatory Committee indicated their irritation with the Conference Secretary-General's articulation of his own follow-up proposal and his appearing thereby to encroach upon territory that national delegates consider traditionally to be their own. However, Marei's formulation had a direct impact on the final decisions of the Conference. He "steered," not "pushed," the national delegations to consider and approve financial and supervisory institutional responses similar to those that he had originally suggested.[28] Therefore, the following comment by the Conference newspaper (resembling others made by observers of international administration in

[27] In an interview with the authors before the publication of the action document, Marei made clear that he wanted to mobilize new monies from traditional and new donors, and also wanted to avoid any new bureaucratic unit. He preferred instead a high-powered, ministerial-level, coordinating group. This double motivation for finance and nonbureaucratic perspectives actually had its origins in the recommendation of a Panel of Experts on the Protein Problem Confronting Developing Countries:

> There is, however, a clear need for a political body or committee operating at the highest level within the United Nations system with responsibility for mobilizing international opinion and action directed towards the protein problem. . . . Such a body should be composed of representatives of Governments at the highest possible level, preferably cabinet ministers, so that nations concerned are closely identified with its efforts, and it could be established by the General Assembly or the Economic and Social Council.

"Strategy Statement on Action to Avert the Protein Crisis in Developing Countries," 3-7 May 1971, UN Sales No. E.71 II.A17, p. 14.

[28] Another observer has noted that "Marei had said, prior to the Rome meeting, that even if the idea of a World Food Authority were to be rejected something similar would emerge to take its place." Tony Loftas, "WFC: Cash Could Cripple the Concept," *Now Where Were We?* January 1975, p. 14.

It is also interesting to note that Marei's ability to conceptualize and see through the implementation of his ideas closely resembled efforts by Maurice Strong and his staff before and during the Stockholm Conference on the Human Environment. Strong had advocated the establishment of a small administrative unit to service an intergovernmental, and nonbureaucratic, body in fulfilling its policy review and coordination functions and to attract and to administer new financial resources. Unlike the international institutions it was to coordinate, this secretariat was to have no operational responsibilities. Although the financial resources to be mobilized after the World Food Conference are to be much higher (almost ten times), the anticipated and actual follow-up mechanisms for the two Conferences are strikingly similar. The three central parts of new arrangements resulting from Stockholm were: an intergovernmental body within the UN (Governing Council for Environmental Programmes); a small secretariat without operational responsibilities (UNEP); and a voluntarily subscribed financial fund (Environmental Fund). The World Food Council, the proposed seven-person secretariat (along with the two new committees in FAO), and the International Fund for Agricultural Development appear to be modeled on the institutions that resulted from the Stockholm Conference.

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general) about the leadership potential of secretariats is inappropriate: "It's the apparently grey men, who don't take controversial stands, but who do know the facts of their subject and the foibles of their political masters, who get things done; and make sure that politicians get the blame when these aren't done."[29]

We are not implying that there are unlimited possibilities of leadership for an international civil servant. Clearly a person such as Dr. Sicco Mansholt was far ahead of his time on ecological matters; he could not impose his ideas on the Commission of the European Economic Community. The case is not so clear for Sayed Marei. The influence of international secretariats often derives from the quality of their technical advice and services, and frequently it may be wise for international civil servants to avoid both public stands and active policy making. However, there are moments when leadership can have an impact, and Marei's identification of the need for a high-level, nonbureaucratic, political committee to keep food concerns and commitments before the international community seems to have been one of them.

The potential for influence on policy making was not confined to the highest-ranking official of the secretariat of the World Food Conference. Sartaj Aziz—the Pakistani Deputy Secretary-General of the Conference, on leave as chief of the FAO's Commodities Division—exerted a significant influence on the ultimate direction and results of the Conference. He, too, ignored the warnings of several career officials who wanted the secretariat to avoid composing any official list of action priorities. Aziz protected the secretariat against criticism by providing the comprehensive "shopping list" of action proposals—in *The World Food Problem, Proposals for National and International Action*; simultaneously he drafted and personally cleared several key resolutions with important governments and blocs of states. By August, well before the Conference, he had received agreement on the final texts of ten resolutions, and was prepared for the final week of deliberations by the Preparatory Committee. When the national delegates voiced their unwillingness to present 85 recommendations—many items in this "shopping list" were contradictory—to their ministers at home, Secretary-General Marei made a speech suggesting ten priorities, and expressed the secretariat's willingness to draft resolutions on each for consideration by the Working Group of the Preparatory Committee.[30] The next day, the finishing touches were put on Aziz's ten resolutions and they were distrib-

[29] Harris (fn. 18), 7.

[30] "Statement by Mr. Sayed Marei, Secretary-General of the World Food Conference at the Third Session of the Preparatory Committee," Rome, 30 September 1974, document WS/F3218.

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uted to the governments.[31] They were then discussed by the Working Group and approved by the Preparatory Committee as the basis for preliminary discussions by the governments in the month preceding the convening of the Conference.[32] Thus, Aziz's influence is obvious in the 20 substantive resolutions passed in November.[33] Only eight resolutions were added, without much debate, to the rewritten versions of his original ten resolutions; the two important ones concerning finance and institutional coordination had been foreseen as necessary by the secretariat but, clearly, needed to come from national delegations during the course of the Conference.

Conclusions

The UN system is characterized by a multiplicity of control mechanisms, each with distinctive attributes and orientations. Too little research about the "nuts and bolts" of international administration has been conducted to permit governmental and international decision makers to structure adequate responses to emerging global problems. We have recounted observations concerning the response of one existing international bureaucracy and the leadership of individual officials in the context of the World Food Conference to support our belief in the value of human effort in the face of what is usually considered the omnipotence of organizational inertia. Although there are many serious constraints on the construction of a more habitable planet, the present study lends weight to the voluntarist view that human beings are as strong as the institutions they create.

The reaction of the FAO to the World Food Conference was basically encouraging. All of the global, *ad hoc* conferences of recent years —such as those on trade, the human environment, and population— treat overlapping issues that have already found a place in the mandates of existing organs of the UN system. Sponsoring the World Food Conference energized (or frightened) the FAO into moving rapidly into

[31] "Note by the Chairman of the Working Group," 2 October 1974, document WM/F3391.

[32] *Report of the Preparatory Committee for the World Food Conference on its Third Session*, October 1974, document E/CONF.65/6, Annex VII.

[33] The text of the resolutions passed by the World Food Conference is found in *World Food Conference*, E/5587, pp. 61-102. Subsequently, Dr. Aziz became Deputy Director of the World Food Council. John Hannah of the United States was named Director. At the June 1975 meeting of the Council, some of the developing states attacked Dr. Hannah's appointment on the grounds that, coming from a developed country, he was unqualified to serve the interests and needs of the developing Third World. The episode was more a rhetorical than an actual attempt to dislodge Dr. Hannah.

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alternative programs. As we pointed out earlier, this defensive reaction by an institution is not an unusual phenomenon; rather it is a natural outgrowth of the way in which all bureaucracies operate. Judgment must be relative; the FAO's positive contributions to the World Food Conference and its subsequent adaptations outweigh its defensiveness. Interorganizational conflict and competition are not always counterproductive. A new situation—here brought on by a deteriorating world food situation and the threat of competition—provided the secretariat of the FAO and the international community with an altered sense of the advantages and disadvantages of the UN body that had long been charged with food and agricultural development, but which had come to be viewed, rightly or wrongly, as being laggard in carrying out its mission. Our examination of the World Food Conference suggests that "the prospect of rival machinery is often the best way to jog existing agencies out of well-worn ruts."[34] It should also be mentioned that once the beneficial catalytic function of a completely new institution has taken place, the dynamics of bureaucracy guarantee that officials of the new agency will become so persuaded of their own worth that they will insist on a permanent status. Perhaps the way to minimize the negative aspects of lethargic bureaucratization is to inject a threat of competition from a new temporary agency periodically, but avoid the establishment of new permanent institutions by concentrating instead on recycling existing ones.

The experience of the leadership of the World Food Conference suggests that the result of overlapping interests and insights provides the opportunity for international bureaucracies to exert considerable influence over governing bodies. In contrast to a national context, the relationship beween international administrations and governing bodies (here between the secretariat and the World Food Conference) is closer, since many members of the governing body themselves have working relationships with the technical experts from national delegations. Harold Jacobson has described the results of this "incestuous" relationship: "The bureaucrats who make up the conference machinery of international organizations, particularly those operating in technical fields, have interests that are often closely aligned with those of the international secretariat; there is a sectorially shared sense of priorities. Hence the conference machinery does not exercise control over an international secretariat in the same way that, for example, a legislature

[34] Robert E. Asher, "International Agencies and Economic Development: An Overview," *International Organization*, XXII (Winter 1968), 442.

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does."[35] The firm rejection of Secretary-General Marei's World Food Authority by the Preparatory Committee was a rejection in name only. His concepts remained among the significant results of the Conference, both in the ministerial level "watch-dog" of the World Food Council and in the Fund to mobilize new financial resources, from traditional as well as new-rich donors. Similarly, the foresight and behind-the-scenes efforts of Deputy Secretary-General Aziz ultimately influenced the content of all the important program resolutions of the Conference.

The potential for creative leadership will continue. The mandates and resolutions of the World Food Conference are individually and collectively vague. They neither constitute a food policy, nor do they grant explicit permission to the UN system to promote a specific organizational activity except in the most general of terms (i.e., expand agricultural production, facilitate investment, or distribute fertilizers). However, such vagueness facilitates a dynamic response from international officials. The abstract formation of policy guidelines occurs in public forums such as international conferences, which can subsequently enhance the power of an international bureaucracy to make its own policy determinations based on weak guidelines. The question of global responsibility for the condition of starving people remains; and part of the answer must be found in administrative offices and not in political forums. In particular, an examination of the leadership of the secretariat of the World Food Conference is a classic case for the study of bureaucratic politics: an international secretariat did not merely indirectly influence the shape of policy; it actually *made* policy.

In the rush to explore the dimensions of pressing global problems and to erect international institutional responses to them, an important consideration is often given too little attention: the details of the way human beings organize themselves to discuss and to act upon global problems. The general value of the study of bureaucratic and administrative politics has been stated by Graham Allison:

> Men share power. Men differ about what must be done. The differences matter. This milieu necessitates that government decisions and actions result from a political process. In this process, sometimes one group committed to a course of action triumphs over other groups fighting for other alternatives. Equally often, however, different groups pulling in different directions produce a result, or better a resultant—a mixture of conflicting preferences and unequal power of various individuals—distinct from what any person or group intended. In both cases, what moves

[35] Jacobson, "Technological Developments, Organizational Capabilities, and Values," *International Organization*, XXV (Autumn 1971), 780.

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> the chess pieces is not simply the reasons that support the course of action, or the routines of organizations that enact an alternative, but the power and skill of proponents and opponents of the action in question.[36]

Although the utility of an administrative perspective has been accepted and integrated into the study of foreign policy, the analysis of international organization frequently overlooks the internal dimension of international administrative bureaucracies.

Administrative theorist Francis Rourke's remark, quoted at the outset, holds no less true for the international than the national level. The investigation of the World Food Conference has demonstrated that existing international institutions can act responsibly, and that international officials concerned with welfare problems can influence national governmental elites to perceive their global responsibilities. For the foreseeable future, bureaucratic and administrative politics will in part determine how important publics assess the work of and potential for international organization. In many cases, bureaucratic politics can become a substitute for intergovernmental politics, and hence it is important to determine the administrative realities behind the success or failure of international programming.

[36] Allison (fn. 9), 145.

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Review Articles

SOCIETAL MANIPULATION IN A MULTIETHNIC POLITY

By JOHN A. ARMSTRONG

Iurii V. Arutiunian, *Sotsial'naia Struktura Sel'skogo Naseleniia SSSR* [The Social Structure of the Rural Population of the USSR]. Moscow, Mysl', 1971, 373 pp., 1 r. 39 k.

Akademiia Nauk Azerbaidzhanskoi SSR, Institut Filosofii i Prava, *Sovetskii Narod i Dialektika Natsional'nogo Razvitiia* [The Soviet People and the Dialectic of National Development]. Baku, ELM, 1972, 330 pp., 1 r. 50 k.

Aleksandr I. Kholmogorov, *Internatsional'nye Cherty Sovetskikh Natsii* [International Characteristics of the Soviet Nations]. Moscow, Mysl', 1970, 222 pp., 59 k.

Boris S. Khorev, *Problemy Gorodov*: Vol. 2, *Ekonomiko-Geograficheskoe Issledovanie Gorodskogo Rasselenia v SSSR* [Problems of Cities: Vol. 2, Economic Geographic Investigations of Urban Settlement in the USSR]. Moscow, Mysl', 1971, 413 pp., 1 r. 68 k.

Vladimir A. Nikonov, *Imia i Obshchestvo* [Name and Society]. Moscow, Nauka, 1974, 277 pp., 1 r. 8 k.

I

THE chill that descended on innovative Soviet belletristic literature (and some kinds of historiography) in the post-Khrushchev era has had, as far as the outsider can determine, relatively little effect on social science publication. To avoid misunderstanding, I should hasten to add that social science has always been restricted in the U.S.S.R., on the whole more seriously than belles lettres and history. Whether for this or other reasons, the bulk of what passes for social science among Soviet publications is dreary. Even outstanding social scientists such as Iurii Arutiunian are censured occasionally. In chronological perspective, however, the best work in social science has, I think, shown a continuous evolution since the Stalinist era. Because I want to present illustrations of the continuing production of significant social scientific works, I have limited the books reviewed here to those published in the 1970's.[1]

[1] There are excellent bibliographies and guides for the Sovietologist pursuing research concentrating on the U.S.S.R. For the non-Sovietologist interested in a field clearly defined in a rather conventional way, ABSEES (*Soviet and East European*

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These books should interest the large number of scholars who are concerned with obtaining a comparative perspective, culturally and longitudinally, on societal development. In their different ways, all of the works considered examine how the Soviet polity has confronted modernization. To an extent rare in most Soviet publications, the authors place this confrontation in comparative frameworks. In varying degrees they use their materials to illustrate the basic Leninist thesis that the highly manipulative (i.e. "planned") nature of Soviet policies makes a difference in confronting the problems of societal development. In contrast to more doctrinaire Leninists, however, some of the authors (particularly Khorev and Arutiunian) admit that, so far, certain social outcomes produced by these policies have differed only marginally from those of "unplanned" polities.

All of the authors (the Azerbaidzhani academicians most explicitly) assume that there is a "Soviet society" (*obshchestvo*). This viewpoint is arguable as an analytic description of current reality, and certainly expresses the long-run aspiration of the regime. Nevertheless, because I regard the existence of a single "society" in the ethnically complex U.S.S.R. as debatable, I have preferred to use the term "polity," which unambiguously characterizes the system as a going concern. But whether one or many societies exist in the U.S.S.R., no serious observer, including these authors, can overlook the extraordinary salience of ethnic differences. In this respect the U.S.S.R., with its elaborate documentation and highly self-conscious (although occasionally inconsistent) efforts at social control of ethnic expression, affords a nearly unique body of material for comparative analysis. As writers like Paul Brass[2] deepen our knowledge of equally complex ethnic situations in

Abstracts Series, Glasgow, 1970– , quarterly) provides good, brief resumés of many books and articles from the U.S.S.R. The unequaled translation service of the *Current Digest of the Soviet Press* (Columbus, Ohio, 1949– , weekly), with its outstanding indexes, tells the specialist where to turn in the daily and periodical press. For the scholar with interests cutting across conventional boundaries (I believe this applies especially to political scientists engaged in the kind of comparative study described below) these guides, while useful, are unlikely to point the way to the small but significant number of book-length studies in Russian which are most apt to engage his concentrated and prolonged attention—as contrasted to works, long and short, which merely provide a bit of factual documentation. Unfortunately, the leading English-language professional journals in political science and international affairs have not done much to remedy this neglect. In contrast, for example, to the *American Historical Review*, which provides reasonably comprehensive reviews of the major Soviet historiography, commentary on Russian-language materials in the political science journals has been haphazard at best.

[2] Paul R. Brass, *Language, Religion, and Politics in North India* (London: Cambridge University Press 1974).

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India or parts of Africa, studies of the Soviet experience should prove invaluable.

A third similarity of the five books under review lies in their generally successful effort to provide a historical dimension to their essentially contemporary analyses. In this respect, Leninist analysis has often been in advance of the more fashionable American schools. The authors reviewed here do a better job of incorporating the historical dimension than do their more doctrinaire or less talented Soviet confrères, but even mediocre Soviet social science has not neglected it. Happily, emphasis on the historical dimension is no longer a novelty in Western sociological and political analysis—as witness the 1976 convention of the International Political Science Association. There is ample reason, consequently, to think that these relatively sophisticated Soviet books will have much to say to the present generation of development theorists.

II

Boris Khorev's solid volume is an outstanding example of the kind of socioeconomic geography that often escapes the attention of American social scientists other than geographers. Without attempting to assess its value as geography, I feel confident in recommending the book both to students of urban affairs and to those concerned with regional planning generally. The bulk of the work is devoted to reanalysis of Soviet aggregate data within a framework similar to those used by Western geographers such as Robert E. Dickinson, Mason Hammond, Josiah C. Russell, and Walter Christaller.[3] But Khorev is innovative both in his elaboration of typologies of city relationships and in his use of comparative data. Particularly interesting is the extended discussion (pp. 155-66) of what Western scholars might term the "post-industrial" city specializing in scientific and educational activities. Khorev adduces a considerable body of data from the United States (with slighter references to Great Britain and Sweden) to show how the "university city" has become a distinct phenomenon in these Western countries. "We scarcely have higher educational cities as a special functional type of city," he notes, for "our principal centers of scientific and technical progress are the large cities" (pp. 162, 165). However,

[3] Dickinson, *City, Region and Regionalism* (New York: Oxford University Press 1947); Hammond, *The City in the Ancient World* (Cambridge, Mass.: Harvard University Press 1972); Russell, *Medieval Regions and their Cities* (Newton Abbot: David and Charles 1972); Christaller, *Die zentralen Orte in Süd-Deutschland* (Jena: G. Fischer 1933).

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Khorev adds that the first large-scale Soviet scientific-educational-manufacturing complex, "Akademgorodka," has recently been built as a suburb of Novosibirsk.

The theme of differing urban functions opens up fascinating avenues for comparative investigation, if pursued with broader historical and sociological perspectives than Khorev's pioneering suggestions can be expected to provide. In his view of the general function of the city in modernization, Khorev is a strict Leninist, indeed a very orthodox Marxist. " 'The division of labor within the boundaries of this or that nation leads first of all to distinction of manufacturing and commercial labor from agricultural labor and, at the same time, to the distinction of the city from the village' " (p. 29, quoting Marx and Engels, Vol. III, p. 20, of the Russian edition of their works). However beset by "contradictions" the process of urbanization may be in advanced capitalist countries like the United States or in developing countries, it is ultimately necessary. Under socialist planning the city becomes the dominant framework for the fundamentally progressive process of industrialization (p. 22).

Khorev's opposition to a considerable range of neo-Marxist thinkers from Mao to Marcuse is obvious. The difference in emphasis between Khorev and Arutiunian, while more subdued, is hardly escapable. While Khorev (along with numerous more popular Soviet authors) places his emphasis on the city as the model for future Communist society, Arutiunian writes that "in Communist society, which will not be acquainted with inequality, the village and the city cannot be related as noncontemporaries, as inferior to superior. Consequently the village must catch up with the city in social development by overcoming the remaining backward characteristics" (p. 4). Arutiunian even regards the countryside as an arena for overcoming the chasm between blue- and white-collar work which has been such a difficult problem for Soviet planners. "Even the liquidation of heavy physical labor may also depend on the tempo of social development of the village, for here at the present time are concentrated the fundamental mass of the unqualified work force" (p. 4).

Examination of these nuanced though distinct alternative concepts of Soviet development is troubling. Khorev's pattern of rapid but controlled urbanization (despite all his criticisms of American urban development) has in fact produced the most successful examples of economic modernization. Steady growth of the urban "modern sector" at the expense of a relatively stagnant rural economy is apparently

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"working" in some sense in countries as disparate as Korea (North and South), Iran, and Brazil. Surely urbanization has been the *predominant* manner of economic modernization in most East European Communist countries, including the U.S.S.R. itself. In fact, relative and absolute growth of the Soviet urban population has tended more and more to leave the countryside to the aged and the very young. Yet the intangible force of Russian sentiment continues to make the village the source of national values. Alexander Solzhenitsyn's views are too well known to need comment here; but it is not as widely realized that recent official literary criticism and belletrism have also exhibited a remarkable concern for traditional rural values. Occasionally, overemphasis on tradition has led the Party to rebuke these expressions; but Russian nostalgia for a rural past appears to fit in with growing doubts in other parts of the world about the nature and tempo of urbanization. Both Khorev and Arutiunian present great chunks of relevant quantitative data, some of them (Arutiunian, Table 16, p. 84; Khorev, Tables 16 and 21, pp. 158, 168-69) not, to my knowledge, available elsewhere. Statistics alone will not settle these differences, but close scrutiny of both books should go a long way toward making the Soviet experience relevant for students concerned with the problems of modernization.

III

References to the reorientation toward traditionalism by Russian intellectuals might be taken to imply a general identification, in the U.S.S.R., between national sentiment and rural values. As a matter of fact, quite a few foreign observers (including this reviewer) have generalized too glibly on this point. Arutiunian discusses a considerable spectrum of rural developments, such as the increasing complexity of material possessions in the countryside and the concomitant changes in peasants' concepts and values. From the standpoint of this review, though, his most significant accomplishment is his sophisticated distinction between two separate sources of national orientation, or, as he disparagingly puts it, "recidivists with nationalist tendencies" (p. 194). Analyzing his survey responses, he shows that 9.3 per cent of a miscellaneous group of male Tatar workers who do not know the Russian language resent being directed by persons of "another nationality" (in the overwhelming majority of cases, Russians), while only 2.8 per cent of those who know Russian share this resentment. Similarly (Table 62, p. 195), 11 per cent of the non-Russian-speaking miscellaneous group object to ethnically mixed marriages, as contrasted

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to 2.8 per cent of those who know Russian (miscellaneous female workers have a somewhat higher resentment factor than males in all these cases). But, as Arutiunian points out (p. 195), the learning of Russian, which acts (according to his standards) as a progressive force on the average, miscellaneous worker, has a more complex effect on the rural "intelligentsia," i.e., white-collar workers. To be sure, knowledge of Russian greatly decreases the extent of resentment of those working under superiors of another nationality (from 13.6 to 5.8 per cent). Here, fairly obviously, instrumental considerations dominate. But whereas 13.6 per cent of all male Tatar village intelligentsia (the category includes such relatively slightly educated groups as elementary school teachers, veterinarians, and bookkeepers) who do *not* know Russian object to mixed marriages, the proportion rises to 14.7 per cent among those who *do* know Russian. This, Arutiunian concludes (p. 196), indicates that there are "two distinct sources of a narrow national orientation. One of them is national-cultural limitations inducing cultural exclusiveness and backwardness, preserving obsolete forms of traditional culture. This kind of national prejudice is found especially among the backward portion of the people engaged in unqualified physical labor, particularly women and the aged." The other "type of national orientation [among the intelligentsia] is connected with social-occupational interests, attached to social-economic reasons, the supply of *and* demand for the qualified working force, the opportunities for social and occupational advancement, etc."—in other words, to factors of social mobility (p. 197).

That Arutiunian's fundamentally Marxist (although innovative) interpretation may not explain the entire complex of attitudes is suggested by the fact that Tatar *women* intelligentsia who know Russian are slightly *less* inclined than those who do not (or than male intelligentsia who *do* know Russian) to object to mixed marriages. Perhaps this difference reflects the tendency of educated Tatar males to cling to the symbol of male superiority afforded by the traditional Muslim rejection of female exogamy, while for the females this symbol contradicts aspirations for sex emancipation. Arutiunian's analysis, impressive as it is, is impoverished by failure to examine the fairly obvious links between the religious basis of Tatar ethnicity and its present manifestations.

That Arutiunian's dichotomy between white-collar (intelligentsia) and blue-collar national sentiments cuts to the core of ethnic identification in a modernizing polity is supported, however, by the even more

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comprehensive surveys undertaken between 1964 and 1969 in the Latvian S.S.R., as reported by Aleksandr Kholmogorov. Kholmogorov is concerned with a broad range of social characteristics. As his title indicates, however, the work does concentrate on the ethnic nature of the population of Latvia, or (more positively from the Soviet viewpoint) on its *non*-ethnic or "international" qualities. Kholmogorov's study is the more valuable in connection with Arutiunian's because Kholmogorov not only treats a non-Muslim population, but one which has been associated with a church (Lutheran) generally more open to modernizing influences than the Russian Orthodox. Nevertheless (although Kholmogorov unfortunately provides few cross-tabulations and does not ascribe the same theoretical significance to them that Arutiunian does), the same dichotomy between the less educated workers and the village intelligentsia emerges from the extensive survey data. Thus teachers and "workers in the arts," while far better acquainted with Russian than manual laborers, tend to use it *less* in their intellectual (*dukhovnaia*) life (Graph 3, p. 119). While interethnic marriages are more common among the intelligentsia than among manual workers in general, they are significantly less common than among factory workers, a group with comparable opportunity for exogamy (Graph 6, p. 92). According to the interesting indicator of participation in Soviet holiday festivities (deliberately designed as a substitute for religious celebrations), teachers, veterinarians, and so forth, rank slightly above average, but about the same as workers in highly modernized occupations (Table 2, p. 209).

In sum, both Kholmogorov's and Arutiunian's materials strongly suggest, if they do not demonstrate, that economic modernization, even in a highly manipulated polity, does not automatically overcome ethnic particularism. While strongly praising the "accomplishments" of the Soviet system on this dimenson, both authors in effect diagnose a situation in which Soviet policy has encountered unexpected obstacles, and suggest means to overcome them. The volume issued by the Azerbaidzhani Academy of Science is of far less methodological interest, as its sponsorship by the Institute of Philosophy and Law may suggest. The book is essentially a normative and prescriptive work. It does present some significant new data on school enrollment by ethnic affiliation (p. 249). Most of its interest derives from the fact that it was prepared for (and at least ostensibly *by*) non-Russians in an area once marked by intense adherence to traditional Muslim culture. Along with earlier works (particularly those prepared in the Uzbek S.S.R.)

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the Azerbaidzhani volume provides a detailed Soviet prescription for overcoming nationalism in areas which were still "feudal" at the time of the Bolshevik Revolution. Since a major element in Soviet propaganda aimed at developing countries has been the utility of the Soviet model of "attaining socialism while bypassing capitalism," both Western and Third-World analysts can profit from a full-scale exposition of the extent to which the model posits dissolution of traditional national cultures and prevention of emergence of modern versions of nationalism. No doubt awareness of this linkage will lead to different reactions: dismay among elites in ethnically homogeneous polities, particularly those of Muslim background; but quite possibly covert emulation in polities like India's, where concern for ethnic fragmentation may already be a force for rapprochement with the "supranational" Soviet regime.

IV

At first glance, Vladimir Nikonov's exercise in onomastics appears improbably remote from the interests of the social scientists who can readily appreciate the comparative utility of the books discussed earlier. Unfortunately, it is just such failure to appreciate the variegated forms in which relevant Soviet materials appear which has hindered incorporation of Soviet experience in the comparative enterprise. Indeed, I suspect that few Soviet specialists (the book is too recent to have been reviewed extensively in the area journals) will appreciate the value of Nikonov's work to their own investigations.

Within the specifically Soviet context, the book is useful in providing subtle indicators of perceived changes in social stratification. Nikonov traces with great thoroughness (often quantitatively or through data readily susceptible to quantification) the emergence of family names among the East Slavs. He shows in some detail why this development occurred considerably later than in Western Europe. He refers extensively to Western historical and philological literature, though a great deal more might be done by comparing the particulars of his findings to works concerned with patterns of personal names in emerging medieval polities.[4] A most striking *difference* was the early tendency of Western European nobles to adopt Germanic given names (later, to

[4] E.g., Américo Castro, *The Spaniards*, trans. by Willard F. King and Selma Margaretten (Berkeley: University of California Press 1971); F. Steinbach, *Studien zur westdeutschen Stamm- und Volksgeschichte* (Jena: G. Fischer 1926); J. Dhondt, *Etudes sur la Naissance des Principautés Territoriales en France* (Bruges: De Tempel 1948).

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a lesser degree, Germanic family names) even when the nobles were of Latin or Gallic origin, thus setting a distinction between them and the peasantry. Among Great Russians, on the contrary, noble and peasant family names (by the eighteenth century both groups followed fashion in adopting foreign Christian names) were derived from the same Slavic forms. Thus, by 1908 the nobility of the core Russian provinces (Vladimir, Penza) in overwhelming majority had names ending in "ov" or "in,"[5] with most of the remainder having the Polish or Ukrainian termination "skii." Virtually all peasant names in these two provinces bore the first two terminations (Diagram 6, p. 205).

Nikonov adduces these data to demonstrate that the masses were more Russian than their masters. (Though true of the higher St. Petersburg nobility or even the sixteenth century boyars, this generalization, as just noted, is scarcely applicable to the provincial gentry.) One can, however, look at the matter from another perspective: the symbolic continuity of Soviet and Imperial political elites in spite of a virtually complete turnover in persons and families. For the Old Bolsheviks this continuity was partly artificial (e.g., adoption of a famous Russian name, Zinoviev, by the Jewish leader Apfelbaum). Since 1938, however, the Soviet elite has been overwhelmingly composed of men of East Slavic peasant ancestry (sometimes at a remove of one generation) with family names (Kozlov, Voronin, even Khrushchev) familiar to students of Imperial administration. In the absence of intensive investigation (probably unfeasible at present) one can only speculate about the extent to which this onomastic continuity induces a sense of historical continuity between the two imperial polities. Our growing recognition of the importance of the symbolic element in politics should, however, mandate the closest possible scrutiny of offbeat materials such as Nikonov provides.

Obviously the discussion of Russian family names is relevant for ethnic composition as well as social stratification. Nikonov, however, extends his analysis of the ethnic factor considerably further. His evidence (p. 208) supports what outside critics (and occasionally the Soviet man in the street) have remarked: that the common ways of adding Russian suffixes to non-Russian (specifically Armenian and Ukrainian) names do not really conceal their alien roots (e.g., "Repchenkov," at first glance Russian, hardly conceals the basic Ukrainian "Repchenko"; "Akopov" readily reveals the Armenian root "Akop"). Thus the So-

[5] Nikonov's data, incidentally, justify Alexander III's generalization (if not his bias) in insisting that his diplomatic corps should be dominated by "real Russians" with names ending in "ov" and "in" instead of the semi-alien "skii."

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vietologist political scientist can really analyze the ethnic composition of, say, the Party Central Committee with reasonable assurance of accuracy. The potential for analogous methods in other multiethnic polities should act as a strong inducement to overcoming neglect of linguistic skills among social scientists. With his own impressive array of skills, Nikonov plunges—where few of us can follow—into the intricate examination of the disparate ethnic origins (Ukrainian and Russian) of such surname terminations as "ikh" and "ykh." He combines geographical distribution maps with name-counts to provide a "behavioral" analysis of complex linguistic phenomena which could serve as a model for students of other areas of the world.

V

The brevity of this essay hardly does justice to the richness of the exposition of these five books. Reanalysis of their quantitative data ought to occupy scholars concerned with a variety of topics for much longer periods than a mere reading and annotation of the books requires. The principal skills needed (once the scholar possesses a reasonably fluent and accurate reading knowledge of Russian) are statistical and methodological. If, however, I may be permitted a small plug on behalf of myself and my Sovietological colleagues, a little training in analysis of Soviet affairs at the seminar level should make these books more readily intelligible.

Even if he does not intend to undertake the statistical reanalysis necessary for full utilization of these materials for comparative purposes, the Russian-reading social scientist can congratulate himself on his access to such significant works. Let us not exaggerate. A reading knowledge of French or German is still vastly more useful to the general student of world politics than is Russian. In fact, I should judge that for general theoretical and methodological purposes (prescinding from the question of access to the more important Soviet experience), Italian and Polish are as valuable as Russian. Barring a new political barrier to social science publication comparable to that of the Stalin era, however, it would seem inevitable that Russian-language materials will increase in relative as well as absolute importance. The sample of post-Khrushchev publication provided by these five books suggests that a new Soviet ice age is not in the making.

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LAW, MORALITY, AND WAR AFTER VIETNAM

By DAVID P. FORSYTHE*

James E. Bond, *The Rules of Riot: Internal Conflict and the Law of War.* Princeton, Princeton University Press, 1974, 196 pp., $11.50.

James Turner Johnson, *Ideology, Reason, and the Limitation of War: Religious and Secular Concepts, 1200-1740.* Princeton, Princeton University Press, 1975, 274 pp., $12.50.

John Norton Moore, ed., *Law & Civil War In The Modern World.* Baltimore and London, The Johns Hopkins Press, 1974, 587 pp., $8.95 paper.

Telford Taylor, *Nuremberg And Vietnam: An American Tragedy.* Chicago, Quadrangle Books, 1970, 207 pp., $5.95.

THE inability of international law to provide effective regulation of violence in world politics has recently accentuated an old interest in understanding the interplay between law and war. In particular, a desire to learn from the Vietnam war has emanated from many quarters.[1]

Academic inquiries have been a leading source of interest in legal regulation of war. But beyond academics, authorities who make international law—and also fight wars—show similar attention. Governments and other parties have recently been negotiating new norms both with regard to the start of war (e.g., a new definition of aggression) and with regard to the process of war (e.g., new protocols to the 1949 Geneva Conventions which protect prisoners of war and civilians, among others, in a war zone).

Those who would relate law to war have consistently had to wrestle with the relative significance of morality, moral choice, and moral dilemmas. It may be true that effective law is based to a great extent on expediency in the form of perceived self-interest. But as this review article will suggest, an effective international law for the regulation of violence must reflect certain moral judgments. Moral elements must be present in effective law because of the secondary function of law. Whereas the primary function of all law is to promote order, the sec-

* The author wishes to thank John J. Weltman of the University of Nebraska for comments on an earlier draft of this article.

[1] To be sure, some observers have not been convinced of the utility of this line of inquiry. Wolfgang Friedmann, for example, continued to argue that effective legal regulation of violence in world politics would come only after the development of law in social and economic fields (see Moore, 576).

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ondary function is to promote values other than order, such as human rights and other forms of social justice. A purely expediential order that fails to promote social justice will not prove to be relatively stable, and thus will fail in law's primary objective, that of producing order. For when social justice is widely perceived to be absent, there will be a significant increase in the number of actors who seek that goal through an instrumental disorder—viz., violence. The difficult quest for harmony between morality and expediency produces many of the moral choices and dilemmas in contemporary efforts to regulate war effectively through international law.[2]

The four books under review do not single-mindedly and overtly address themselves to the relationship between morality and expediency as applied to contemporary legal problems. Johnson's volume comes closest to doing that. Johnson studies the interplay of moral and expediential thought (which he calls secular) in the period 1200–1740. Although his focus is not on contemporary thought, he makes an effort to put the contemporary search for effective legal regulation of violence in historical perspective, to some degree covering the post-1740 period in an epilogue.

In thematically tracing the history of efforts to justify the use of violence, Johnson at times follows well-travelled paths (for example, both Taylor, pp. 58-77, and Firmage in Moore, pp. 310-14, treat part of the same history). What is new about Johnson's treatment is primarily the systematic development of the interplay between morality and expediency (although Taylor, for instance, has noted that relationship in passing, p. 20). Johnson's central theme is the changing nature of attempts to regulate violence: from moral to expediential. His epilogue argues the need for a return to morality, especially for regulation of the process of war. Moreover, Johnson pays particular attention to the idea of parochial "just wars." He notes that arguments in support of wars for religion-ideology (that is, wars against nonbelievers or what

[2] For present purposes, "morality," "religion," and "ideology" are used as synonyms. This approximates usage by Johnson: " 'Ideology' . . . is used to refer to belief structures that are discretely based and different from one another, and no value judgment as to their contents is implied. In this sense of the term both Communism and Fascism are ideologies, and one may speak also of Puritan ideology, the ideology of the Pure Land School of Buddhism, or indeed the ideology of a world religion such as Christianity" (p. 12). Each of the three terms—morality, religion, ideology—refers to a belief structure used to distinguish right from wrong with a metaphysical content of crucial importance. Cf. Robert W. Tucker, who uses "morality" to refer to feelings of sympathy, in Robert E. Osgood and Robert W. Tucker, *Force, Order, and Justice* (Baltimore, Johns Hopkins Press 1967), Part II, Section 1, pp. 195-218.

"Expediency" is used to refer to judgments based on self-interest. What is legal may be based on morality, or expediency, or both.

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he calls "Holy Wars"), were not a stable component of efforts to justify violence. The parochial "just war" argument—that wars could justifiably be launched for religion or ideology—died out in Western thought after the Crusades and was not resurrected until this century in the form of support for wars of national liberation (as Firmage also notes in Moore, 309-17). Johnson's main purpose, however, remains that of showing how arguments about war by early Christian theologians and then by Medieval moralists gradually were altered by transitional figures, such as Suarez and Victoria, to emphasize largely expediental notions—a clear trend by the time of Vattel and Grotius. Thus, self-interest came to replace divine justice in determining the rightness of organized violence.

Moore and Bond are directly concerned with civil wars in the modern period. The volume edited by Moore is the cumulative product of some seven years of inquiry by the panel on civil war of the American Society of International Law. It is sure to become a standard work on the subject. The intent of the study is to produce recommendations for a new international law of civil war. Not unexpectedly, there is disagreement within the panel as to whether Moore's synthesis of the panel's work is conducive to a more effective law. Bond's book is also concerned with civil wars, but focuses on one aspect of the old law rather than on a complete blueprint for new law. Bond studies the meaning and application of Common Article Three of the four Geneva Conventions of 1949, a section that is the only piece of statutory international law currently governing "non-international armed conflict." His is a readable and much-needed survey of legal interpretation and state practice.

Finally, the small book by Taylor, formerly chief United States prosecutor at the Nuremberg war crimes trials of the mid-1940s, deals with the relevance of those and related trials to the situation in Vietnam. His ideas, which received some notice in the public press in the early 1970's, deal to a great extent with moral judgments. He does not consistently seek to draw the distinction between morality and expediency. Rather, he emphasizes the importance of the difference between morality and law, especially with regard to establishing a legal judgment about United States participation in the war in Vietnam. Although Taylor is morally and expedientially opposed to that involvement, he argues that a valid opinion cannot be obtained on the legality of American entry into the war because of the difficulty of definitely establishing facts pertaining to motivation. However, he does

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find international law highly relevant to a legal opinion about American behavior once the United States decided to participate.

Despite the diversity among the four books, they have at least three things in common: (1) each obivously demonstrates nongovernmental interest in legal regulation of war; (2) each can be shown to parallel current governmental interests in regulating war; and (3) each deals with the tension between moral and expediential thought, if only implicitly. What follows will relate these three ideas, especially the third, to four themes of contemporary importance: (a) the outlook for an effective law regulating recourse to war (*jus ad bellum*); (b) the outlook for an effective law regulating the process of war (*jus in bello*); (c) the salient problem of legal regulation of civil wars; and (d) the issue of individual responsibility for violation of international law in war.

Jus ad Bellum

In its modern form, international law purporting to regulate recourse to war emphasizes primarily expediential notions to support its central norm forbidding aggressive force. The related concept of nonintervention into internal affairs also has an expediential dimension. Because most states believe—at a general or abstract level of thought—that war is dysfunctional to their interests, they have agreed to norms proscribing aggressive behavior. These are found in the United Nations Charter (e.g., Article 2, paragraph 4).[3] A similar logic is applied to intervention (e.g., Article 2, paragraph 7). However much these states may circumvent those norms in particular situations, they have agreed to have such norms as a universal "law on the books." While there is some moral support for the United Nations Charter's ban on aggression and intervention, the primary support is expediency in the form of perceived national interest.[4]

One central problem in implementing norms against aggression and intervention has been that numerous and important parties have wanted to make exceptions to these expedientially oriented rules on

[3] For a recent review of some of the literature regarding decline in the functionality of war, along with the presentation of a different point of view, see John J. Weltman, "On the Obsolescence of War: An Essay in Policy and Theory," *International Studies Quarterly*, XVIII (December 1974), 395-416. See also F. S. Northedge, ed., *The Use of Force in International Relations* (New York: Free Press 1974).

[4] No doubt there is "pure moral" support for the Charter's ban on aggression and intervention because of concern for the injustices to individuals that would result from such action. And there is some "moral-ideological" support from neo-Hegelians who oppose aggression and intervention because it threatens nation-states and the nation-state system, both of which are viewed as intrinsically good.

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the basis of morality. Some first use of force is held to be legal not so much because it is defensive force against aggression, but because it is intrinsically moral—e.g., a war for self-determination. Although such events as India's takeover of Goa in 1961 could possibly be viewed as belated self-defense against Portuguese aggression 400 years earlier, it was more frequently viewed—especially by Indian spokesmen—as a parochial "just war" permitting derogation from the UN Charter's ban on force (except for self-defense). As an example of this parochial thinking on "just war," Stephen M. Schwebel has selected an Indian statement arising out of the Security Council's debate on the Goa affair. "[T]his is a colonial question. It is a question of getting rid of the last vestiges of colonialism in India. This is a matter of faith with us. Whatever anyone else may think, Charter or no Charter, Council or no Council, that is our basic faith which we cannot afford to give up at any cost" (Moore, 446). Looking at the case of Goa, Schwebel notes that "the facts of the case arguably support the contention that wars of liberation—viewed, at any rate, as liberation from Western colonialism—are treated by the international community as an exception from Charter prohibitions on the use of force" (Moore, 447).

Some developing and some Socialist states argue that intervention is legitimate when it supports wars of self-determination and/or national liberation. And there has been a more general endorsement of intervention when it supports other claimed human rights. The supporting argument is moral: in such cases it is good to intervene, whatever the traditional law may say. To the considerable extent, therefore, that nonintervention is based on an expediential concern for order in a system of nation-states, moral intervention is supported at times by many, whether it occurs in the form of support for self-determination or in the more classic form of "humanitarian intervention."[5]

Moral exceptions to bans on first use of force and intervention are well demonstrated by the "Bangladesh dilemma" of 1971. Did the Bihari people have the right to use force in seeking national self-determination? Did India have the right to intervene in East Pakistan/Bangladesh, either to support Bihari independence or to stop genocide by West Pakistan? Pakistan of course answered in the negative on grounds that neither people nor foreign states have the right to dismember an already existing state. Especially from the Indian viewpoint, however, moral considerations—like support for independence or opposition to genocide—were dominant (and most certainly so when

[5] See Richard B. Lillich, ed., *Humanitarian Intervention and the United Nations* (Charlottesville: University of Virginia Press 1973).

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they dovetailed with an expediential interest in weakening a competitor).

These moral exceptions to an international order based primarily on expediential notions have been pursued by the Third World with such vigor—even if on a selective basis—and have picked up enough diplomatic support from the Socialist states, so as to cause great skepticism regarding the viability of the Charter's *jus ad bellum* and related law on intervention. Appeals to a "higher law" of anticolonialism have done much to negate the prohibitions on recourse to war and intervention found in the Charter. Moreover, the West's implicit "higher law" of anticommunism (frequently placing anyone to the left of Nelson Rockefeller in the category of Communist), has made its own contribution to the demise in effectiveness of these norms.[6]

It is true that the UN has approved a new definition of aggression. It is also true that this definition largely bypasses the problems that are of concern here. In the new definition, the first use of force constitutes *prima facie* evidence of aggression by a state, although the Security Council can find extenuating circumstances.[7] The approved definition goes on to state, "Nothing in this definition . . . could in any way prejudice the right to self-determination, freedom and independence . . . nor the right of these peoples to struggle to that end and to seek and receive support, in accordance with the principles of the Charter. . . ."[8]

Thus there is room under the definition for the Council to support the first use of force as pre-emptive self-defense (Israel in 1967? the U.S. during the Cuban missile crisis of 1962?). There is also room for the Council to support force exercised in relation to self-determination (such as Mozambique's armed support of ZANU in the fight against Ian Smith?).

But because the Security Council has since 1945 made only one and one-half "decisions" regarding aggression and threats to the peace (a clear decision against the Smith regime and a threat to proceed to a decision in the context of the 1948 Arab-Israeli war), implementation of the definition remains theoretical-academic rather than of compelling diplomatic importance. It is not likely that the Henry Kissingers of the world are losing sleep over the matter. Witness the Mayaguez affair of 1974: was the U.S. response a matter of humanitarian inter-

[6] See Robert W. Tucker, *The Just War* (Baltimore: Johns Hopkins Press 1961); Richard Barnet, *Intervention and Revolution* (New York: World Publishing Co. 1968).

[7] *American Journal of International Law*, Vol. 69 (April 1975), 482.

[8] *Ibid.*, 483.

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vention, reprisal, or aggression? No one knows in a legally definitive way, and the Security Council is certainly never going to tell us.

Moore tells us that we should not engage in an "exaggeration of the effects of decentralized decision in the international system" (p. 4). He further warns that "it is a mistake to despair of the utility of normative standards for appraisal simply because the process for evaluation of claims is diffuse." This "unrealistic despair" must be rejected (p. 12). He does add that "it is at least as important to strengthen the capability of international institutions to deal with interventionary problems as to develop normative criteria for permissible and impermissible intervention" (p. 8). Presumably that analysis applies to claims of aggression as well as of intervention.

Where Moore's less than totally consistent statements leave us is less than totally clear. He urges legal scholars to examine the questions that are under consideration here. Such urging is not irrelevant to the problems of world order. It can be argued with considerable plausibility that the Mayaguez action would *not* have been terminated even had the Yale Law School with one voice regarded the action as illegal. Yet it can also be argued that, over time, such commentary by legal scholars has a certain educational effect, helping to construct what William D. Coplin calls a new climate of opinion in world affairs through the use of legal argument.[9] Such argument at present may have more a moral rather than a legal quality. A moral, rather than fully legal, position in an international system still primitive in its institutions for central control is not, as Wolfgang Friedmann reminds us, "irrelevant." "In primitive legal societies, morality, as embodied in social custom, has always occupied a far larger place than law in the strict sense" (Moore, 579). Legal interpretation, diffuse though it may be, may help fashion that limiting social custom.

The modern world is still too medieval for *jus ad bellum* to act as an effective regulatory device for recourse to violence. Local loyalties are too strong; central institutions are too weak. But interpretations of norms pertaining to aggression and intervention carry immediate moral significance, as Richard Falk argues, "greatly extending our conception of what it is reasonable for practical and decent men to expect from international law" (Moore, 546). Over time such examination may lead to effective regulation. In the meanwhile, the pursuit itself is not without diplomatic significance, if only to raise the diplomatic costs of *de facto* aggressive or unjustified interventionary action.[10]

[9] *The Functions of International Law* (Chicago: Rand McNally, 1966) chap. 5.
[10] See Thomas Franck and Edward Weisband, *Word Politics* (New York and Lon-

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Jus in Bello

In law to regulate the process of war, we again find an interplay of expediential and moral considerations, but in a mixture different from *jus ad bellum*. Modern *jus in bello* still emphasizes expediential reasoning; there is still effort to base the law on perceived national interest. Thus, it is sometimes argued that the law should promote economy of force, making unnecessary destruction illegal—which after all remains in the interest of a fighting party. It can also be argued that the law should provide for conditions of surrender and humane treatment—in the interest of a fighting party that seeks to induce an opponent's defeat through loss of morale and will to fight. And it can be argued that there should be no urban bombing, because such attacks solidify an opponent's will to fight.

But increasingly in current negotiations there is much—perhaps crucial—emphasis on moral reasoning, precisely because expediential reasoning is not entirely persuasive, or at any rate not persuasive enough to constitute effective limitation. Increasingly, civilian immunity is at least implicitly accepted as a legal concept on moral grounds, because that is the only way to promote limitation of violence. The concept of noncombatant immunity is acknowledged as a moral restriction, to be observed even when it is admitted that some noncombatants make an indirect and important contribution to combat. The civilian makes both guns and butter, but the law continues to state that it is legal to regard him as *hors de combat*. The civilian ought to be regarded as outside the bounds of war, even if this contradicts the full sweep of a belligerent's self-interest. The path to limitation is through moral argument.

There is also a contemporary emphasis on improving the rights of medical facilities to operate in and above combat areas, again for moral reasons. The wounded may recover to fight again, but it is moral to care for them as quickly and efficiently as possible, and the law should provide for that moral concern.[11]

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don: Oxford University Press 1971); and Louis Henkin, *How Nations Behave* (New York: Praeger 1968). Both of these works analyze the diplomatic and psychological costs paid by some nations for certain actions.

[11] At the 1974 and 1975 sessions of the Geneva Diplomatic Conference on Humanitarian Law, the most rapid and extensive agreements were reached in Commission II, which dealt with medical transport and other medical-technical-humanitarian subjects, largely (but not entirely) devoid of diplomatic and military significance. The norms adopted were based primarily on morality and commanded wide support.

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For Johnson, such moral-ideological consideration is *the* essential element in an effective *jus in bello* today.

> Though the criterion of function remains the principal source of limits on the prosecution of war in the twentieth century, it is no longer today an effective criterion. . . . The argument for noncombatant immunity on grounds of function, supported by considerations of necessary economy of limited force and supplies, is ineffective in a time when bullets are so plentiful that they can be sprayed by the hundreds of thousands over a sector of jungle merely on the suspicion that enemies might be there, or when bombs are so plentiful and powerful that they can be used to obliterate whole city blocks (or whole cities, in the case of nuclear bombs) instead of being preserved carefully for use against targets of obvious military import. Moreover, the concept of function itself has changed when civilians working in war-connected industries are attacked directly, and functionally based restraint is entirely removed when civilian population centers are laid waste for the effect it will have on morale or what is now suggestively termed the "home front." . . .
>
> I wish only to indicate that whichever [limiting] standard is used [by modern writers such as McDougal and Schwarzenberger], humanity or civilization . . . , their use represents an attempt once more to find an overarching, universally acceptable ideology whose values will serve to dampen the flames of war. An ideological element has thus once again been introduced into doctrine on restraint of war, and it is no accident that this has come precisely at the point when the non-ideological thrust begun in the early modern period has reached its limit and ceased to be effective (pp. 264-66).

Increasingly, then, there is emphasis on morality for the sake of limitation. Also, morality is emphasized for the sake of morality. In the latter approach, it is important for a belligerent to avoid becoming a barbarian. As Telford Taylor puts it:

> Another and, to my mind, even more important basis of the laws of war is that they are necessary to diminish the corrosive effect of mortal combat on the participants. War does not confer a license to kill for personal reasons. . . . War is not a license at all. . . .
>
> Unless troops are trained and required to draw the distinction between military and nonmilitary killings, and to retain such respect for the value of life that unnecessary death and destruction will continue to repel them, they may lose the sense for that distinction for the rest of their lives. The consequence would be that many returning soldiers would be potential murderers.
>
> As Francis Lieber put the matter in his 1863 Army regulations: "Men who take up arms against one another in public war do not cease on this account to be moral beings, responsible to one another and to God." (pp. 40-41).

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In the view of some U.S. officials, in Vietnam as in Korea, one of the problems was how to go to war and yet not be dragged down to the lowest common denominator of behavior, via reciprocity, by enemy actions. For some, then, modern *jus in bello* is to help a "civilized people" fight without destroying its system of values. This type of support for *jus in bello* is essentially moral in nature.

Many of these moral concerns are widely shared at present. The moral and expediential concerns together have led to widespread acceptance of modern *jus in bello*, at least as law on the books. This law may have a new component in the near future in the form of two Protocols to the 1949 Geneva Conventions.[12] More than 120 states, plus other entities, signed up to negotiate these two instruments (more than 135 states having already adhered to the 1949 Conventions, although some with reservations). Only China, Albania, and South Africa failed to attend the second session (1975) of this projected three-session Conference. What is even more significant is that only North Vietnam—at the first session (1974)—came out with a Holy War doctrine that would negate a universal *jus in bello*. Before walking out of that session in protest against the exclusion of the Provisional Revolutionary Government of South Vietnam, the North Vietnamese delegation circulated a document whose effect would be to make humanitarian *jus in bello* into a *jus ad bellum* against imperial aggressors. In the view of North Vietnam in 1974, humanitarian law for regulating the process of violence should:

> *First*, effectively protect human beings against the war machine of aggression, promote and develop their capacity to use all their courage and intelligence to defend themselves against the weapons used by the imperialist aggressor;
> *Second*, take all possible measures to prevent the use of the war machine of aggression by morally condemning it as a war crime. . . .
>
> The effective and vigorous protection of mankind against the war machine therefore calls for the exclusion of any rules which require guerrilla fighters to wear distinctive emblems, since these would only serve to make them the target of the imperialist aggressor's fire, or which restrict the ruses of war—the courage and intelligence of the inadequately armed man—and represent them as acts of perfidy.
>
> In severely condemning the war machine of aggression as criminal, the rules prohibiting means and methods of criminal combat should be as complete and detailed as possible. Similarly, the inadequate and dan-

[12] For a review of events leading up to the Conference and a survey of major issues, see R. R. Baxter, "Humanitarian Law or Politics: The 1974 Diplomatic Conference on Humanitarian Law," *Harvard Journal of International Law*, XVI, No. 1 (1975), 1-26.

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gerous concepts of "unnecessary injury", "unnecessary suffering", "due proportion" and "military necessity" should be excluded.[13]

Diplomatic historians may well ponder whether this statement explains North Vietnamese policies toward detained American fliers and other individuals supposedly covered by *jus in bello* during the war in Vietnam. For present purposes, what is significant about North Vietnam's parochial "just war" argument (saying in effect that all law must discriminate in favor of the guerrilla fighting against imperialism) was that it lacked support in 1974 and was abandoned even by North Vietnam in 1975. Not even Hanoi's war-time allies endorsed the statement, and Hanoi itself did not pursue this line of argument when it returned to the Geneva Conference. This abortive effort by North Vietnam in 1974 further indicates general acceptance of modern *jus in bello*, at least as law on the books, although that first-stage acceptance does not guarantee application of the law.

Given the demonstrable ineffectiveness of the first line of defense against war as found in *jus ad bellum*, there is a broad and deep consensus on the need for a second line of defense against war's destruction as found in *jus in bello*. This consensus, composed of both moral and expediential elements, is opposed only at the price of isolation, as North Vietnam discovered. Even those who practice the parochial "just war" find difficulty in preaching it.

Civil Wars

Many of the contemporary concerns about regulating both the start and the process of violence—whether those concerns are based on morality or perceived self-interest—are evident in discussions about new international law for civil wars. The subject has been a focal point for many legal scholars, given the evident prevalence of civil war as a fact, and the equally evident ineffectiveness and indeed collapse of the old customary law.

The right to have recourse to civil war is largely ignored by traditional international law, at least insofar as treaty law is concerned. This legal silence occurs not only because traditional international law regulated states as direct subjects rather than peoples or individuals, but also because states preferred not to recognize through international legal norms any right to revolt.

If recourse to civil war involves a claim of national self-determination, then international law has something to say—even if it is unclear

[13] Conference Document CDDH/41, 12 March 1974, p. 5; also passim.

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—on the subject. The right to national self-determination in general is admitted; witness the many resolutions of the General Assembly on the subject. Those resolutions, and scholarship on the issue (cited by Moore at p. 20, n. 28), do not, however, clearly distinguish wars of self-determination from ordinary civil wars.[14] And recent practice by the international community seems to indicate only confusion: the Kurds and Ibos seem to have no right to self-determination; the National Liberation Front of South Vietnam was both supported and opposed; and the liberation movements in southern Africa have been generally supported. A major problem in implementing the right to self-determination is that a movement for self-determination exists largely in the eye of the viewer: witness Sukarno's argument that his violent action against Malaysia fell in that category (noted by Schwebel in Moore, 457). Thus a continuing problem rests in the clear identification of situations of genuine self-determination.

Therefore some observers conclude, with C. E. Black, that the appropriate role of law is to regulate the process of civil wars rather than the recourse to it.[15] Moore agrees. "[C]ivil wars broadly defined are a normal, organic part of human experience. . . . The problem for international law is, therefore, not to prevent civil wars but to manage them. . . . A major challenge of the modern age is the construction of a system of world order within which the unrest within individual countries can run its course without becoming a source or an excuse for international conflict" (Moore, 68-69).

In trying to regulate civil wars rather than pass judgment on their start, we have still not quite resolved the problem of self-determination. According to Article 1 of Protocol I, now being negotiated, a war of self-determination, or an anti-racist, anti-imperialist, anti-occupation war, is to be regulated by the complete humanitarian law of international armed conflict, even if the situation in question looks like a civil war.[16] The law to regulate the process of civil wars (found primarily in Common Article Three to the 1949 Geneva Conventions and perhaps in

[14] See the United Nations Declaration of the Principles of International Law Concerning Friendly Relations and Co-operation among States in Accordance with the Charter, General Assembly Res./2625 (XXV), 24 October 1970. Peoples are said *not* to have a right to self-determination in a territory "possessed of a government representing the whole people belonging to the territory without distinction as to race, creed, or colour."

[15] Cyril E. Black, "Conflict Management and World Order," in Black and Richard A. Falk, *The Future of the International Legal Order*, Vol. III, *Conflict Management* (Princeton: Princeton University Press 1971), 3-14; see also Moore, 68.

[16] See Forsythe, "The 1974 Geneva Conference on Humanitarian Law: Some Observations," *American Journal of International Law*, Vol. 69 (January 1975), 77-91, for an analysis of the negotiations. Cf. Baxter (fn. 12).

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Protocol II now being negotiated) only applies to civil wars without self-determination or various "anti" claims. Thus, if one is interested only in regulating the process of what appear to be civil wars, there is still some question as to which regulatory standards apply. If it is a civil war with self-determination, then all of the four Conventions, plus perhaps Protocol I, apply. If it is a civil war without self-determination, only Common Article Three, and perhaps Protocol II, apply.

The difference between the two situations is that an incumbent government (as well as the challenger) in a war for self-determination is legally obligated to apply the full law of international armed conflict. That is a more onerous burden than applying the law of non-international armed conflict; legally it entails some type of third-party supervision of implementation of the law. Admission that the full law applies also enhances the status of the challengers.

But neither the old nor the projected law authorizes a third party to make a binding determination as to when a war of self-determination exists. Thus, for *jus in bello* as for other parts of international law, there will continue to be competing claims over appropriate regulatory standards, claims that will go unresolved for lack of authoritative judgment.

Despite this complexity and probable confusion, perhaps we should not emphasize the maximum end of the scale of problems. Since Ian Smith is not going to recognize formally ZANU's right to fight for self-determination or to go to war against a racist regime, there will be enough to do to implement the minimum law without worrying much about maximum application. The International Committee of the Red Cross has not yet gotten the Smith regime to admit the relevance of Common Article Three. To talk of implementing the entire Geneva Conventions in Rhodesia is to pin an overall legal label on the situation for reasons of *realpolitik* rather than to promote the practical application of the law of armed conflict.[17]

Beyond the issue of how claims to self-determination affect regulatory standards on incumbents and challengers in civil wars lies the issue of third-party intervention, perhaps the focal point of the work edited by Moore.

The destructiveness of the American intervention in the war in Vietnam apparently causes many of the contributors to Moore's volume

[17] Special norms for wars of self-determination could have practical significance. Claims that such norms should be applied might increase the diplomatic pressure on an actor, or generate internal pressures, leading to application of at least some of the rules in at least an informal way. See Forsythe (fn. 16), 89.

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to favor an extensive, if flexible, prohibition on third-party intervention in situations of civil wars. Moore has argued his position in terms praised by Falk as a meshing of the McDougalian contextual and policy-oriented approach with a concern for specific and clear guidelines (Falk in Moore, 546). Moore suggests two key rules regarding unilateral intervention by a third party:

> It is impermissible to assist a faction engaged in any type of authority-oriented internal conflict or to use the military instrument in the territory of another state (or zone of a divided state) for the purpose of maintaining or altering authority structures.
>
> Assistance to a widely recognized government is permissible in response to an armed attack or to offset impermissible assistance of insurgents; if assistance to insurgents or the use of the military instrument constitutes an armed attack it is permissible to reply proportionately against the attacking state (p. 26).

The crucial question concerns the prospect of implementing this formula. The answer is that the prospect is most probably nil—at least as the rules are now formulated. The tension between rules and current behavior is too great.

First of all, Moore's rules are not likely to be formally accepted, say in treaty form, especially by Socialist states. A ban on "assistance" to a challenging faction in a civil war would rule out help for a Socialist faction by a state whose ideology proclaims global revolution. Adam Ulam, among others, has pointed out that, however much Marxism-Leninism may be twisted in the application of Socialist foreign policy to the real world, Socialist elites cannot overtly discard their creed, because it is the source of their legitimacy at home.[18] Socialist states are therefore unlikely to accept the first rule on intervention, which activates the second rule; and the second rule fails to limit the violence significantly.

Second, there is moral opposition to the first rule. The extended and biting critique of Moore's position by Thomas J. Farer (Moore, 549-64) is relevant here. In provocative language, Farer argues for a moral right to revolt at times and to support those who do, rather than deny them assistance.

> John Norton Moore's antirevolutionary bias, which prowls throughout his work, is the mark of a representative American Establishment mind (p. 556). . . .
>
> It is, I suppose, natural for a white scholar, reared in the cocky middle classes of an affluent and relatively open society, to see compromise as

[18] Ulam, *The Unfinished Revolution* (New York: Vintage Books 1964).

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> a universal contribution to human rights. His inbred conception of reform is a little more for one group and a little less for another, or a bit of tinkering with the administrative machinery. The notion of root and branch change is frighteningly alien. But for many people it seems the only way to achieve minimally decent standards of living and significantly greater rights of personality. I for instance, find it plausible to believe that neither goal can be achieved in Santo Domingo until the social structures established by Trujillo are destroyed. As long as the army and police remain intact, the life of reform politicians and their constituents will tend to be nasty, brutish, and short (p. 554).

Farer and Moore disagree, in the last analysis, on which incumbent regime is to be regarded as legitimate. For Moore, any "widely recognized" regime is legitimate, especially if elected; hence, assistance to a challenging faction is ruled out in stage one. For Farer, that argument will not suffice. He attacks Moore's reliance on elections as a legitimizing device, arguing that they are too easily manipulated to prove a sure guide to legitimacy. But Farer fails to stipulate an alternative guide, providing Moore with the opening for a counterattack (pp. 565-73). The remaining basic disagreement accurately reflects the real world, for Moore *does* represent a Western bias toward order and procedural tests, and Farer *has* captured the non-Western, antiestablishment dissatisfaction with unjust order camouflaged by artificial democratic procedures devoid of substantive democratic benefits. A comment by Firmage is relevant (Moore, 344). The question of legitimacy *is* crucial for regulating interventions. And because there is a lack of global agreement on what constitutes a legitimate regime, and because, in particular, there is significant moral opposition to certain unjust regimes, Moore's rules are not likely to be accepted or applied.

Third, as if these first two points of difficulty were not sufficient to bury the rules, not only will the Socialists and moralists oppose the rules, but so also will the self-styled realists—on expediential grounds (national interest). The rules prohibit third-party assistance to a challenged government until there is impermissible assistance to the challengers. This rule would require a friendly government to turn its back on a challenged government at precisely the moment when that challenged government needed and invited help. Put concretely, the rule would require the United States to turn its back on the government of Ethiopia at precisely the time of Eritrean challenge. Although it may be argued from a concern for world order that such a policy by the U.S. would be in the interest of the international system, most national decision makers probably would not look at the situation in the same light, particularly if they feared the introduction of a competi-

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tor's influence. Moreover, because some type of foreign assistance to insurgents is likely to be either alleged or found by the incumbents in this interdependent age, the first rule will be bypassed and we will be left with a second rule which is practically open-ended. The realists will argue that the rules are *not* "policy-responsive."[19]

For these three reasons, it seems preferable to return to Farer's earlier writing, endorsing a flat ban on *armed* intervention into civil-war situations and leaving the issue of third-party assistance short of armed intervention to the machinations of *realpolitik*.[20] Such a norm should be consistent with policies emanating from the West in the post-Vietnam period. Indeed, the thrust of the Nixon Doctrine was in this direction. That doctrine indicated reservations about armed intervention while it pledged continued support for other forms of assistance to certain challenged regimes. Moreover, the Nixon Doctrine accords with China's practice. Jerome Alan Cohen notes certain Chinese policy statements asserting that "revolution or people's war in any country is the business of the masses in that country and should be carried out primarily by their own efforts; there is no other way" (Moore, 368). Thus, the Chinese appear to eschew direct armed intervention in favor of more covert, less military involvement in civil war situations, a pattern noted by Firmage as well (Moore, 322). The Soviet Union has no clear and unambiguous record of armed intervention outside of Eastern Europe. Although the Soviets have not formulated a precise policy or taken a legal stand on the subject of intervention, armed or otherwise, there is some empirical reason to believe that they might observe a ban on armed intervention, at least outside their buffer zone.[21] The attitudes

[19] If, however, the two sides in a civil war were of roughly equal power, a third party might prefer rule one over the entanglements of involvement on the governmental side. In the Ethiopian civil war, given a more powerful Eritrean independence movement—with the capacity to make attacks on American personnel and installations—the State Department might like an excuse for not responding to the government's request for military assistance, providing support for Moore's first rule. But support for the rule would therefore depend on a highly fluctuating perception of the dangers of involvement or noninvolvement. It would still be difficult to get consistent support for the rule, especially in those situations where the challengers appeared weak. In the Angolan civil war, the Executive has acted in opposition to Moore's first rule and in keeping with the logic expressed in this review article. The Congress, on the other hand, has tried to develop an Angolan policy consistent with Moore's rule.

[20] Farer's writings on this point, as well as critiques by Moore and Friedmann, are referred to in Moore (xiv, fn. 3). In general, see R. J. Vincent, *Non-Intervention and International Order* (Princeton: Princeton University Press 1974).

[21] Both Butler and Firmage note (in Moore) that Soviet spokesmen and writers have been careful to keep Soviet policy and legal doctrine vague on the subject of intervention into civil wars (pp. 317-18, 387-88, 397). It is not without significance that the Soviets, while sending their military advisers to the civil war in Angola, have avoided sending their combat troops, preferring to see Cuban fighters involved.

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of Third-World governments on this issue are too complex for analysis here; at any rate, most do not have the capacity for armed intervention very far from their own borders.

In an approach that centers on keeping the struggle between incumbents and challengers as limited as possible, morality is an inherent problem. Is it moral to let a civil war always run its domestic course without outside armed intervention? Indan policy in Bangladesh notwithstanding, it seems to be accepted that armed intervention is usually the greater of two evils. The other evil is third-party indifference to gross violations of human rights—as in Angola, where both black and white civilians continue to die in large numbers while the uninterrupted civil war for control of central authority structures goes on. (The three fighting factions have, however, permitted the ICRC to supervise detention of combatants.) In similar situations, such as those in Northern Ireland, Burundi, and Indonesia, there was only slight danger of escalation of violence through third-party intervention, but there was escalation of violence from internal causes. Because of moral concern for suffering caused by these internal forces, some observers endorse third-party intervention that does not alter central authority structures.[22] But of course any intervention to curtail abuses of human rights would have an impact on the civil war itself, if only to impede the stronger party.

A consoling thought in wrestling with this moral opposition to a flat ban on armed intervention in civil wars is Charles de Visscher's thesis that "peace will serve justice better than justice will serve peace."[23] If dangers from escalation can be limited, perhaps there will be an improvement over time regarding social justice.

In addition, we should note that *jus in bello interno* is supposed to keep violence within certain limits, thus perhaps supporting a ban on armed intervention as a moral as well as an expediential notion. On this point, Bond's *The Rules of Riot* is highly relevant. Unfortunately, Bond demonstrates that we should not be too optimistic about the ability of Common Article Three to regulate the process of violence in civil wars.

A fundamental problem has been the reluctance of governments to admit that a Common Article Three situation exists. As Bond tells us:

> Two conclusions emerge from a survey of state practice. First, states that quell riots, insurrections, or even revolts quickly do not feel bound to

[22] See the chapters by Brownlie and Lillich (in Moore), and the literature cited therein.

[23] Charles de Visscher, *Theory and Reality in Public International Law*, trans. by P. E. Corbett (Princeton: Princeton University Press 1957), p. 328.

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> respect Article 3. . . . States do, second and nevertheless, accept some obligation to treat opposing forces humanely if the conflict drags on beyond several weeks or months. While this recognition seldom takes the form of an explicit acceptance of Article 3, it often manifests itself in acceptance of some Red Cross initiative (pp. 60-61). . . .
>
> Indeed, a country's initial reaction is usually to decree martial rule, expand the reach of the criminal law, and increase the punishment for offenses endangering national security (p. 113). . . .
>
> Though the preceding catalog of wanton destruction, torture, rape, pillage, and execution is in every instance but the other face of a human right ignored or violated, the traditional categories of internal conflicts to which the laws of war apply reflect more deference to the supposed jurisdictional competency of national sovereigns than concern for the human rights of those caught up in the struggle (p. 49).

In other words, states will claim domestic jurisdiction to deny application of international law and entry of the International Committee of the Red Cross for as long as possible, defying all reason in the process. According to the *International Herald Tribune* of May 14, 1975, as many as ten thousand persons died in the violence in Ethiopia between January and May of that year; Eritrean insurgents held the city of Asmara from time to time. A Red Cross press release states:

> The delegates of the International Committee of the Red Cross (ICRC) stationed in Addis Ababa have not yet been authorized to go to Asmara.
>
> To the ICRC's offers to provide the victims of the conflict in Eritrea with assistance and protection, the Ethiopian Minister for Foreign Affairs has replied that the government has the situation in hand and that there is no emergency.[24]

There are other problems as well. As Bond points out, we do not know now, nor has anyone ever known, what exactly is prohibited or permitted under the vague strictures of Common Article Three. Nor is there any guaranteed supervisory mechanism to see that whatever is prohibited is indeed not done.

Some of these issues are being negotiated at the Geneva Conference on Humanitarian Law. Draft Protocol II, as it exists at the time of writing, is applicable to situations along the lines of the Spanish Civil War, as long as the insurgents carry out the law.[25] A number of Third-

[24] ICRC, *The ICRC in Action: Information notes* (31 March 1975), No. 219b, p. 1.

[25] The following article has been provisionally adopted by the 1975 session of the Geneva Conference on Humanitarian Law with regard to the material field of application of draft Protocol II pertaining to noninternational armed conflict:

> The present Protocol, which develops and supplements article 3 common to the Geneva Conventions of 12 August 1949 without modifying its existing conditions of application, shall apply to all armed conflicts which are not covered by article 1 of Protocol I and which take place in the territory of a High Contracting Party

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World governments are decidedly *un*enthusiastic about Draft Protocol II, seeing it as a restriction on their response to current problems. Its fate is therefore most uncertain. Even if approved by the Diplomatic Conference, the Protocol probably would not receive rapid ratification by the states most disposed to civil wars. Support for Protocol II—support that is moral in nature because of a concern for individual welfare—is at variance with the perceived self-interest of governments that anticipate fighting civil wars.

Individual Responsibility

A final contemporary concern with international law, morality, and war is the Nuremberg tradition of individual legal responsibility for crimes against peace, war crimes, and crimes against humanity. The significance of the Nuremberg, Tokyo, and other war crimes trials in the wake of the Second World War is concisely summarized by Taylor as having "brought to the development of the international penal law of war an international jurisdiction, a strong affirmation of the individual's obligation to comply with internationally recognized standards of conduct, a first enforcement within narrow limits of the concept of 'crimes against peace,' and a considerable expansion of the area of criminal liability for violations of the laws of war" (p. 92).

Much of the contemporary concern with the Nuremberg tradition centers on individual responsibility under *jus in bello*. Contrary to some assumptions, a focus on *jus in bello* has always been the numerical thrust of that tradition, as Taylor reminds us:

> Precise figures are lacking, but by the spring of 1948 some 3,500 individuals had been tried on war crimes charges in Europe and 2,800 in the Far East, taking no account of trials held by the Soviet Union or China. It would be a conservative estimate that some 10,000 persons were tried on such charges from 1949 to 1950, and during the past 10 years hundreds more have been, and still are being, tried before West German courts. With a few exceptions, these trials were exclusively concerned with violations of the laws of war, and for the most part the charges related to mistreatment either of prisoners of war, or of the civilian populations of occupied countries (p. 28).

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between its armed forces and dissident armed forces or other organized armed groups which, under responsible command, exercise such control over a part of its territory as to enable them to carry out sustained and concerted military operations and to implement the present Protocol.

The present Protocol shall not apply to situations of internal disturbances and tensions, such as riots, isolated and sporadic acts of violence and other acts of a similar nature, as not being armed conflicts.

Conference document CDDH/I/274, 26 March 1975.

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Taylor further tells us that although the crime of waging aggressive war led to prosecutions, "in the upshot no man suffered death and few any lesser penalty on that basis" (p. 76).

This emphasis on *jus in bello* follows logically, not only from the novelty of the charges involving aggressive war and crimes against humanity, but also from the difficulty of establishing the facts concerning these charges.[26] In order to implement these two parts of the Nuremberg tradition, one must first have a finding of a violation of *jus ad bellum*. This is difficult to achieve for an international tribunal concerned with upholding rigorous standards, except in situations of total and rapid defeat of a belligerent. Only in these cases have the relevant records establishing motivation come into the court's possession. Therefore Taylor suggests that the Nuremberg tradition has little to provide by way of constructive judgment on the question of the legality of U.S. participation in the Vietnam war (p. 104). He believes the relevant facts are too obscure for the necessary finding that could then activate penal law for waging aggressive war.

On the other hand, he finds the Nuremberg tradition to have immense relevance to *jus in bello* in Vietnam. His conclusion holds that officials of the American Government, at least up to the level of the Joint Chiefs of Staff, were and are individually responsible for violations of *jus in bello* stemming from that war. To date, however, the only trials concerned with individual responsibility for violations of *jus in bello* in Vietnam have dealt with lower- rather than higher-ranking personnel. It has been the Calleys and Medinas that have stood trial, not the Westmorelands and the Abramses. The dialectics of the situation encourage an accused lower-ranking military man to use the argument of following superior orders—not to escape liability, but to shift the glance of the court-martial upward, which is precisely where a military court is least inclined to look. The synthesis of the defendant's claim and the court's hesitancy is a light penalty for the lower-ranking person. That outcome leads to moral opposition to the whole process, since it is blatantly inequitable. Even studies of the situation which are basically sympathetic to the U.S. Government and military (which Taylor's is not, for, *inter alia*, he holds the bombing of Nagasaki—and of Dresden by the British—to be war crimes) admit problems in administering this kind of justice. One study recommends at least

[26] It is well to recall that in precise legal terms a crime against humanity only exists in conjunction with committing a war crime or waging aggressive war. There must be a finding that there is an armed conflict and that one of these violations has occurred before there can be a finding that a crime against humanity has occurred.

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trial by civilian rather than military courts to improve equity.[27] Taylor prefers international jurisdiction.

Despite problems in administering justice pursuant to the Nuremberg tradition—such as trying to ensure that it is not merely the victors' justice against the losers, and officers' justice against enlisted men—there is a significant contemporary effort to establish the Nuremberg tradition in relation to *jus in bello* as a valid part of international law. This current legislative effort implies the need to find solutions to the problem of administering the norms in an equitable way.

Taylor does not tell us so, but controversy continues over the principles of the Nuremberg tradition. Are they just moral ones, sometimes evoked as law when it suits a victor or the top military and civilian authorities when criticized, or are the principles permanent parts of modern international law? Taylor informs us that, after the principal trials of World War II, the United Nations General Assembly affirmed "the principles of international law embodied in the Nuremberg judgment" (p. 14). What he does not tell us is that when the International Law Commission (ILC) drew up six precise principles derived from the Nuremberg and Tokyo trials, the General Assembly failed to endorse them.[28]

At the ongoing Geneva Conference on Humanitarian Law, some delegations are trying to incorporate the Nuremberg principle of individual responsibility in relation to *jus in bello* into the additional protocols to the Geneva Conventions. If individual responsibility for violations of the laws of war is written into those instruments, it will clarify the legal status of at least some of the Nuremberg principles already drafted by the ILC.[29]

Taylor makes clear why one cannot expect the concept of individual responsibility to play a significant role under *jus ad bellum*. Legal proof of individual crimes of aggression and individual delicts related to aggression will not be forthcoming in most instances. Whether a clarified individual responsibility in relation to a clarified *jus in bello* can impose more effective limitations remains to be seen. Moore concludes that the Nuremberg tradition "will make only a modest con-

[27] See Joseph W. Bishop, Jr., *Justice Under Fire: A Study of Military Law* (New York: Charterhouse 1974), chap. 7, esp. pp. 291ff.

[28] See Sydney D. Bailey, *Prohibitions and restraints in war* (New York and London: Oxford University Press 1972), 41-53; Peter D. Trooboff and Arthur J. Goldberg, *Law and Responsibility in Warfare: The Vietnam Experience* (Chapel Hill: University of North Carolina Press 1975).

[29] See ICRC, Draft Additional Protocols to the Geneva Conventions of 12 August 1949 (Geneva: June 1973); Protocol I, Articles 70-79.

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tribution to the community regulation of revolutionary and interventionary violence" (p. xvii).

At present the individual soldier faces a moral (and expediential) dilemma of gargantuan proportions. Legally he can be held responsible for disobeying an order he knows—or should know—to be illegal. He can be punished for failing to do so. But he can also be punished—on the spot, fatally—for disobeying a command, legal or illegal. So far, lower-ranking personnel have been made to answer for the choice rendered and superiors have not—a situation that itself raises important moral questions.

Conclusions

After Vietnam, as before, no reasonable observer can be optimistic about the impact of law and morality on war. At least nuclear weapons were not used, but certainly law had little to do with that, although perhaps morality did. If so, moral objection to using nuclear weapons in a dubious cause is not likely to be translated into legal rules.[30]

Jus ad bellum, a product of largely expediential reasoning, will remain basically ineffective in the near future. Because of perceived self-interest, states will continue to argue for an excessively broad definition of what constitutes self-defense and therefore a permissible use of violence. In addition, as has been suggested above, states and other parties will continue to make moral exceptions to prohibitions on first use of force.

A possible cause for some optimism is the foreseeable end of formal colonialism in Africa and Asia, plus détente among the great powers, which together might lead to greater commitment to the present territorial order and greater acceptance of the legitimacy of existing elites within existing or soon-to-be existing boundaries.

But even if, say, the state of Uganda is regarded as legitimate, there will be indigenous elements morally outraged by the actions of the government. At some point such situations lead to a violent challenge, frequently with assistance from abroad. Thus the problems of evaluating restraining norms, based on both morality and expediency, in the context of an international civil war, will plague us for some time—if not forever.

Whether in international or internal armed conflict, *jus in bello* is

[30] Law, morality, and war have been linked to the subject of nuclear weapons by several writers. See in particular Richard A. Falk, *Law, Morality and War in the Contemporary World* (New York and London: Praeger 1963); and Osgood and Tucker (fn. 2), Part II.

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likely to be more effective than *jus ad bellum*. Here too, the problems stemming from a decentralized legal order are pronounced, involving primarily a lack of central and authoritative definition of the precise norms and their effective supervision.[31] But the effort to prohibit violence in the process of war which cannot be justified morally or expedientially continues with some dynamism. To date, there has been some success in writing new law. And there has been some success in translating the law on the books into applied law. In the despair over the evident weaknesses in international law, it has been generally forgotten that the United States did pay considerable attention to laws concerning prisoners of war, not only in the north but also in the south of Vietnam (probably for reasons of expediency), even if it failed to be diligent about phases of civilian protection. Likewise, India provided generally correct treatment to some 90,000 prisoners of war during the war for Bangladesh, although she did detain them for a period considered by many to be excessively long—and illegal.

What Taylor has written about one situation is largely true of all *jus in bello*. "If it were not regarded as wrong to bomb military hospitals, they would be bombed all of the time instead of only some of the time" (p. 40). If there were not moral and expediential restraints on the process of violence, there would be even greater injustices and destruction than now exists. Moreover, the violation of law does not erase the law. Indeed, if there were no violations, there would be no need for law.

Whatever the future of legal regulation of violence in world politics, morality will have a large part to play alongside sheer expediency.

[31] On the important subject of supervising the law of armed conflict, see Forsythe, "Who Guards the Guardians: Third Parties and the Law of Armed Conflict," *American Journal of International Law*, Vol. 70 (January 1976).

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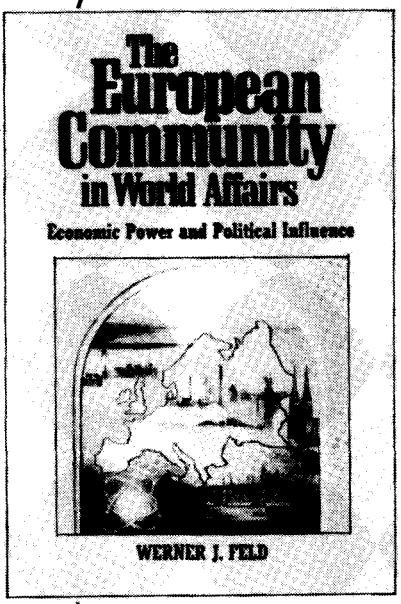

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